

Far from belonging:
Race, Security, Dissent and the Canadian Citizenship Story after 9/11

by

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A thesis submitted in partial fulfillment of the requirements for the degree of
Doctor of Philosophy

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Abstract

Have Canadian citizenship discourses and practices fundamentally changed after the terrorist attacks of September 11, 2001? This is the question driving this study. While dominant accounts suggest that 9/11 was wholly transformative, there is no clear consensus both in and outside the academy as to whether we can characterize 9/11 as a fundamental rupture in time. Moreover, amongst those who do posit this moment in time as causally transformative, there is no firm consensus as to the nature of that transformation. To answer the question, this dissertation draws on print media accounts as well as Canadian Federal Court, Federal Court of Appeal, and Supreme Court of Canada decisions between 1980 and 2010. These are used to track three key areas in which the assumptions around governing and citizenship were subject to intense contestation in the post-9/11 context: 1) discourses of multiculturalism, the issue of reasonable accommodation, and the anxiety over the veiling practices of some Muslim women; 2) discourses of civil liberties and the suppression of academic freedom in the context of organizing for Palestinian rights at Canadian universities, and; 3) discourses of security and Canada's controversial security certificate program. By identifying parallels and continuities across the pre- and post-9/11 periods, this project challenges the dominant understanding that 9/11 constitutes a fundamental shift in politics. I argue that empirically, the historical lineage of each case study demonstrates that the intense forms of regulation non-normative, marginalized and dissident citizens are subject to in the post-9/11 period are not unique to this period. Put differently, these forms of regulation were not made possible by the terrorist attacks of 9/11, the 9/11 moment does not fully give us the tools to make sense of these cases, and the case

studies are literal reiterations of discursive and regulatory moments that significantly predate this moment in time. Second, I argue that in the Canadian context, liberal theories of differentiated citizenship do not help us analytically understand this continuity, and instead suggest that the 9/11 attacks interrupted a presumed trajectory of liberal progression.

The study's findings have broader theoretical implications for citizenship and change. In Canadian Political Science, liberal theories of differentiated citizenship have dominated academic accounts. By and large, these approaches understand citizenship as a status, an institution or an assemblage of rights and responsibilities. Drawing on the work of David Theo Goldberg, Giorgio Agamben, Holloway Sparks and Rita Dhamoon, this dissertation treats citizenship as a form of regulation, and demonstrates how processes of racialization, securitization and ideas of 'dissidence' are integral to how we are governed as citizens. By focusing on these processes, this research offers an alternative understanding of citizenship that accounts for the experiences of marginalized groups, and in doing so exposes how accounts of time, crisis and change are deeply political. Moreover, the account offered here disrupts the presumption that 9/11 interrupted a history of uncomplicated liberal progress. This has several consequences for how Canadian political scientists theorize citizenship including: re-evaluating the conventional 'cues' or signals used to measure or assess citizenship and progress; accounting for the differential nature of citizenship regulation; complicating how we theorize the relationship between citizens and non-citizens; taking account of the transnational nature of the regulation of citizenship; and, ultimately, reconsidering the value of frameworks of belonging in analyzing citizenship.

To Emil and Celia

Acknowledgments

I've imagined writing my acknowledgements more than a few times. And, now that I am here, this process signals not just the opening of a new window in terms of my research, but a 'closing' as well. These 'thankyous' are indelible; a permanent way of acknowledging the rich intellectual and emotional nourishment I've received over the past number of years. This permanence is daunting and admittedly a bit paralyzing. But, if this dissertation is in fact about disrupting how we think about time, then certainly my release from this paralysis is that these 'thank yous' should be seen as works in progress, or as an ongoing practice I will be committed to.

With that, I owe infinite thanks to my supervisor Dr. Yasmeeen Abu-Laban. Yasmeeen, the best way for me to acknowledge what you have done for me is to commit to carrying out critical, honest and empathetic work, and to approach students and their work with kindness, generosity, excitement, and interest. This and more you have shown me, and I remain in awe of your own practice as a scholar, as well as with your dedication, your demonstrated capacity for collegiality, and the restraint and skill you show in providing real guidance while simultaneously standing back and encouraging your students to carve out their paths.

Enduring thanks are also owed to my supervisory committee members, Dr. Lois Harder and Dr. Rob Aitken. Lois, you have always taken me, my commitments, my writing and my analysis seriously. Your generosity in treating me as a peer is profoundly humbling and transformative. This I will owe to those students who fear or hesitate to take up space, because those are the students that end up participating in their own silencing, and those are the students whose voices and analyses need to be elevated. Rob, thank you for the gentle guidance and encouragement you've also offered me during this process. In particular, the care and diligence you showed in *really* considering and grappling with this work was incredibly meaningful.

These are all people you want to know, and people whose work you need to read.

Thank you to Dr. Jennifer Kelly, Dr. Siobhan Byrne, and to my external examiner, Dr. Peter Nyers, all of whom have turned 'hoops' that I have had to jump through into profoundly formative moments in terms of where my work ended up, and in terms of where my work will now take me. Your astute interventions and questions of genuine curiosity have been nourishment for me – thank you.

Without a doubt, this page would be incomplete without specific mention of Dr. Rita Dhamoon. I count myself so incredibly personally and professionally lucky to have been in conversation with the brilliant Dr. Dhamoon. Rita, I have not simply been continually inspired by you and your work, but I have *survived* this because of you. I look forward to a long reciprocal friendship with you – what a gift of infinite proportions it has been to have met you.

To my friends, Ashley Hunka, Mariam Ibrahim and Mariam Georgis – your levity, full-on brilliance, strength, wit, support, humour, affirmation, and willingness to rage alongside me have helped to sustain me and remind me that there is an ‘outside’ to this. Thank you.

Support has come in so many forms from a wide range of scholars – thank you to Dr. Judy Garber, Dr. Steve Patten, Dr. David Kahane, Dr. Abigail Bakan, Dr. Linda Trimble, Dr. Kiera Ladner, Dr. Lori Thorlakson and Dr. Cressida Heyes. Thank you to my amazing friends and peers, some of whom remain near while others have scattered far and wide – Dr. Ghada Ageel, Dr. Lyubov Zhyznomirska, Maya Seshia, Dr. JD Crookshanks, Dr. Ethel Tungohan, Dr. Kyla Sentes, Dr. Stephanie Martens, Jurgita Kornijenko, Dr. Caroline Hodes, Dr. Megan Mackenzie, Dr. Nermin Allam, Dr. Siavash Saffari, Evelyn Hamdon, the Palestine Solidarity Network – Edmonton, Ayesha Basit, Hajar Amidian, Nicole Lugosi, Elim Ng, Shaista Patel, Dr. Debra Thompson, Dr. Janice Williamson, Saleh Alzaghari, Dr. Lynette Shultz, Dr. Erin Tolley, Dr. Dana Olwan, Dr. Davina Bhandar, Dr. Radha Jhappan, and Dr. Sujith Xavier. Some of you will be surprised to find yourself on this list, but you are here because at some point, beers we’ve shared, mutual commiserations, your personal courage, and/or the strength of your analysis and your convictions have left a permanent imprint on me.

A great thanks is due to the administrative team at the Department of Political Science – over the years Donna Coombs-Montrose, Caroline Kinyua, and Cindy Anderson have been particularly invaluable to me – generous with their time, not simply with respect to administrative matters, but also when it came down to simply *talking* about life, children, and families.

Thank you to Dr. Emily Merson, who was my on-the-ground research assistant collecting data from the offices of *The Excalibur* on York University campus. This would not have been possible without your impeccable work. Thanks are also owed to Anna St. Onge, Archivist at the Clara Thomas Archives and Special Collections at the Scott Library at York University, as well as Miguel Angus from *The Excalibur*.

This research has been generously funded by the Social Sciences and Humanities Research Council of Canada, the University of Alberta’s Faculty of Graduate Studies and Research, the University of Alberta, the Canadian Political Science Association, and the Department of Political Science at the University of Alberta.

How does a dissertation get written without steaming hot carafes of chai, unconditional love, packed lunches, notes of encouragement written on napkins, paratha, loving and safe childcare, tearful conversations, endless patience, emotional and financial support and gentle encouragement? It doesn’t. Thank you to my dear sisters, but most especially, thank you mom and dad. Whether directly or indirectly, your lives, your stories, your histories, and your values are woven into every single page of this dissertation. I am brought to tears thinking about what you have done to bring me to this point – the tears deepen when I reflect on all your acts of selflessness and generosity that I know you will never disclose to me. My thanks to you will be in all that I pour into Emil and Celia – every ounce of unconditional support, encouragement and confidence.

Darling Quinn – you are heroic. Writing this dissertation has, at times, brought out some of my finer qualities, but more often than not, the process has stoked the flames of my less desirable attributes. This has not been the case for you. You are steady, and loving, and encouraging, and giving, and interesting – none of these attributes have wavered during this process, and they have simply become more entrenched. This is rare and special – two of the most apt descriptors of you. Thank you, thank you, thank you – never doubt for one second that I don't fully recognize all the sacrifices that have accompanied these 500-odd pages. I can't wait until we retire.

To Emil and Celia – undoubtedly, the best years of this process have been the ones when you both were with me, whether it was *in utero* as I gave lectures, or when I was 'writing' paragraphs in my mind as I nursed you in dark, hushed rooms, or when I was cuddling with you on the couch when I should have been writing. You *are* what matters – you have added balance to how I approach the world of academia, but you have also reminded me that resistance and insistence *must* be radical – the stakes are simply too high.

Finally, I looked at 'texts' in my research, but I was writing about people - people who are marked in particular kinds of ways by the state, people who are at risk when both included and excluded, but also profoundly courageous people, living in impossible situations and resisting harrowing forms of violence. My thanks are owed to the people populating the pages of this dissertation, as is my own accountability.

I could wax poetic that the process of writing this dissertation has been a lonely one. That, it has not been.

Table of Contents

ABSTRACT	II
ACKNOWLEDGMENTS	III
<i>Table of Contents</i>	<i>vi</i>
LIST OF ABBREVIATIONS	VIII
INTRODUCTION	1
0.1 INTRODUCTION	1
0.2 RESEARCH BACKGROUND	3
0.3 RESEARCH QUESTION AND CORE ARGUMENT	14
0.4 ORGANIZATION OF DISSERTATION	18
CHAPTER 1: THEORETICAL ISSUES AND RESEARCH METHODOLOGY	21
1.1 INTRODUCTION	21
1.2 LITERATURE REVIEW	23
1.2.1 <i>Why citizenship?</i>	24
1.2.2 <i>Conceptual Trends in the Citizenship Literature</i>	28
1.2.3 <i>Theoretical Trends in the Citizenship Literature</i>	36
1.2.4 <i>Conclusions</i>	56
1.3 THEORETICAL FRAMEWORK	57
1.3.1 <i>Challenging the Dominance of Liberalism</i>	57
1.4 RESEARCH METHODOLOGY	70
1.4.1 <i>Analytics of government</i>	70
1.4.2 <i>Case Studies – Selection and Timeline</i>	72
1.4.3 <i>Methods and Sources</i>	80
CHAPTER 2: CITIZENSHIP AND THE ‘CRISIS’ OVER THE VEIL: CULTIVATING INTERNAL EXCLUSIONS	85
2.1 INTRODUCTION	85
2.2 SITUATION ‘THE PROBLEM’ - BACKGROUND AND TIMELINE	87
<i>Period 1: 1985-1993</i>	89
<i>Period 2: 1993 - 1999</i>	92
<i>Period 3: 1999-2003</i>	99
<i>Period 4: 2003-2006</i>	99
<i>Period 5: 2006 - 2010</i>	101
2.3 FINDINGS	108
2.3.1 <i>Governing through Exception</i>	109
2.3.2 <i>Governing through crisis and security</i>	124
2.3.4 <i>Governing Dissent</i>	138
2.4 CONCLUSIONS	146
CHAPTER 3: DISCIPLINING DISSIDENT CITIZENS: PALESTINE SOLIDARITY ACTIVISM ON CANADIAN UNIVERSITY CAMPUSES AFTER 9/11	150
3.1 INTRODUCTION	150
3.2 SITUATING ‘THE PROBLEM’ AFTER 9/11 – BACKGROUND AND TIMELINE	156
3.2.1 <i>The ‘new anti-Semitism’</i>	157
3.2.2 <i>Israeli Apartheid Week</i>	160
3.2.3 <i>Political backlash</i>	162
3.2.4 <i>On-campus backlash</i>	168

3.2.5 <i>The case of York University after 9/11</i>	175
3.3 CONCLUSION	192
CHAPTER 4: DISCIPLINING DISSIDENT CITIZENS: THE TARGETING OF PALESTINE SOLIDARITY ACTIVISTS THROUGH TACTICS OF EXCEPTION	196
4.1 INTRODUCTION	196
4.2 FINDINGS.....	197
4.3 GOVERNING THROUGH EXCEPTION	199
4.4 CONCLUSIONS: THE THREAT OF THE APARTHEID ANALYSIS	249
CHAPTER 5: DISCIPLINING DISSIDENT CITIZENS: PALESTINE SOLIDARITY ACTIVISTS, SECURITIZATION AND THE PERILS OF INCLUSION	260
5.1 INTRODUCTION	260
5.2 GOVERNING THROUGH CRISIS AND SECURITY.....	261
5.2.1 <i>Securing the dissident institution or securing the institution from dissidence?</i>	264
<i>Conclusions</i>	353
5.3 GOVERNING DISSENT.....	354
5.3.1 <i>Shaming and blaming</i>	359
5.3.2 <i>'Normal' politics</i>	366
5.4 CONCLUSIONS.....	382
CHAPTER 6: FAR FROM BELONGING: CITIZENSHIP, SECURITY CERTIFICATES AND THE SUPREME COURT OF CANADA	392
6.1 INTRODUCTION.....	392
6.2 SITUATING THE 'PROBLEM' - SECURITY CERTIFICATES.....	396
6.2.1 <i>Security Certificates and 9/11</i>	404
6.2.2 <i>Legal History</i>	410
6.3 FINDINGS.....	423
6.3.1 <i>Governing through Exception</i>	424
6.3.2 <i>Governing Through Crisis and Security</i>	443
6.3.3 <i>Governing Dissent</i>	454
6.4 CONCLUSIONS	464
CHAPTER 7: CONCLUSIONS	467
7.1 INTRODUCTION	467
7.2 ANALYSIS.....	474
7.2.1 <i>Governing through Exception</i>	474
7.2.2 <i>Governing through crisis and security</i>	488
7.2.3 <i>Governing Dissent</i>	495
7.3 IMPLICATIONS AND CONCLUSIONS	501
BIBLIOGRAPHY	510

List of Abbreviations

ADQ	Action Démocratique du Québec
AI	Amnesty International
ARC	Arab Students Collective
AUCC	Association of Universities and Colleges in Canada
AUH	Association of University Heads of Israel,
BDS	Boycott, Divestment and Sanctions
CAUT	Canadian Association of University Teachers
CBC	Canadian Broadcasting Corporation
CBSA	Canadian Border Services Agency
CCCI	Council for Cultural Communities and Immigration
CCLA	Canadian Centre for Civil Liberties
CCR	Canadian Council for Refugees
CDA	Critical Discourse Analysis
CEQ	<i>Centrale de l'enseignement du Québec</i> – the Federation of Québec Teachers
CFS	Canadian Federation of Students
CIC	Citizenship and Immigration Canada
CIJA	Canadian Council for Israel and Jewish Advocacy
CIJA- PAC	Canadian Council for Israel and Jewish Advocacy Political Action Committee
CJC	Canadian Jewish Congress
CJPME	Canadians for Justice and Peace in the Middle East
CPCCA	Canadian Parliamentary Coalition to Combat Anti-Semitism

CPS	Canadian Political Science
CSC	Correctional Services Canada
CYSF	Council of York Students Federation
EUMC	European Union Monitoring Centre on Racism and Xenophobia
GRAIN	Grassroots Anti-Imperialist Network
GSA	Graduate Student Association
IAW	Israeli Apartheid Week
ICCA	Inter-Parliamentary Committee for Combating Anti-Semitism
IDF	Israel Defense Forces
IPAC	Israeli Public Affairs Committee
IRPA	Immigration and Refugee Protection Act
ISIS	Islamic State in Iraq and Syria
JDL	Jewish Defense League
JSF	Jewish Student Federation
KIHC	Kingston Immigration Holding Centre
LTE	Letters to the editor
LTTE	Liberation Tigers of Tamil Eelam
MCCI	<i>Ministère des communautés culturelles et de l'immigration</i> – Ministry of Cultural Communities and Immigration
MCSC	Montreal Catholic School Commission
MICC	<i>Ministère de l'immigration et des communautés culturelles</i> – Ministry of Immigration and Cultural Communities
MLF	Millennium Leadership Fund

MRCI	<i>Ministère des relations avec les citoyens et de l'immigration</i> – Ministry of Relations with Citizens and Immigration
MSF	Muslim Student's Federation
NDP	New Democratic Party
NEWS on Iraq	Now End War and Sanctions on Iraq
NSERC	Natural Sciences and Engineering Research Council of Canada
OFS	Ontario Federation of Students
OISE	Ontario Institute for Studies in Education
OPIRG	Ontario Public Interest Research Group
PIRG	Public Interest Research Group
PNP	Progress not Politics
QHRC	Québec Human Rights Commission
QuAIA	Queers Against Israeli Apartheid
SAFS	Society for Academic Freedom and Scholarship
SFPQ	<i>Le Syndicat de la fonction public du Québec</i>
SIRC	Security Intelligence Review Committee
SJE	Students for Justice and Equality
SLAPP	Strategic Lawsuit Against Public Participation
SPHR	Solidarity for Palestinian Human Rights
TUUSP	Temporary Use of University Space Policy and Procedures
UIAFC	United Israel Appeals Federation of Canada
UJA	United Jewish Appeal Federation of Greater Toronto
UMSU	University of Manitoba Student's Union

USC	University Students' Council
YAC	York Action Coalition
YASA	York Arab Students Association
YCISS	York Centre for International and Strategic Studies
YUDC	York University Divestment Committee
YUF	York University Foundation
YUFA	York University Faculty Association
YZP	Young Zionist Partnership

Introduction

0.1 INTRODUCTION

Have Canadian citizenship discourses and practices fundamentally changed after the terrorist attacks of September 11, 2001? This is the question driving this study. While dominant accounts suggest that 9/11 was wholly transformative, there is no clear consensus both in and outside the academy as to whether we can characterize 9/11 as a fundamental rupture in time. Moreover, amongst those who do posit this moment in time as causally transformative, there is no firm consensus as to the nature of that transformation. To answer the question, this dissertation draws on print media accounts as well as Canadian Federal Court, Federal Court of Appeal, and Supreme Court of Canada decisions between 1980 and 2010. These are used to track three key areas in which the assumptions around governing and citizenship were subject to intense contestation in the post-9/11 context: 1) discourses of multiculturalism, the issue of reasonable accommodation, and the anxiety over the veiling practices of some Muslim women; 2) discourses of civil liberties and the suppression of academic freedom in the context of organizing for Palestinian rights at Canadian universities, and; 3) discourses of security and Canada's controversial security certificate program. By identifying parallels and continuities across the pre- and post-9/11 periods, this project challenges the dominant understanding that 9/11 constitutes a fundamental shift in politics. I argue that empirically, the historical lineage of each case study demonstrates that the intense forms of regulation non-normative, marginalized and dissident citizens are subject to in the post-9/11 period are not unique to this period. Put differently, these forms of regulation were not made possible by the terrorist attacks of 9/11, the 9/11 moment does not fully give us the tools to make sense of these cases, and the case

studies are literal reiterations of discursive and regulatory moments that significantly predate this moment in time. Second, I argue that in the Canadian context, liberal theories of differentiated citizenship do not help us analytically understand this continuity, and instead suggest that the 9/11 attacks interrupted a presumed trajectory of liberal progression.

In this way, the study's findings have broader theoretical implications for citizenship and change. In Canadian Political Science, liberal theories of differentiated citizenship have dominated academic accounts. By and large, these approaches understand citizenship as a status, an institution or an assemblage of rights and responsibilities. Drawing on the work of David Theo Goldberg, Giorgio Agamben, Holloway Sparks and Rita Dhamoon, this dissertation treats citizenship as a form of regulation, and demonstrates how processes of racialization, securitization and ideas of 'dissidence' are integral to how we are governed as citizens. By focusing on these processes, this research offers an alternative understanding of citizenship that accounts for the experiences of marginalized groups, and in doing so exposes how accounts of time, crisis and change are deeply political. Moreover, the account offered here disrupts the presumption that 9/11 interrupted a history of uncomplicated liberal progress. This has several consequences for how Canadian political scientists theorize citizenship including: re-evaluating the conventional 'cues' or signals used to measure or assess citizenship and progress; accounting for the differential nature of citizenship regulation; complicating how we theorize the relationship between citizens and non-citizens; taking account of the transnational nature of the regulation of citizenship; and, ultimately, reconsidering the value of frameworks of belonging in analyzing citizenship.

0.2 RESEARCH BACKGROUND

“But everything has changed, and the world will never go back to the way it used to be, before the madness began, at 8:45 a.m. Eastern Daylight Time” (Wente 2001, A1).

“...the idea that September 11 changed everything must be rejected.” (Roach 2002, 946).

“Societies appear to be subject, every now and then, to periods of moral panic. A condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests; its nature is presented in a stylized and stereotypical fashion by the mass media; the moral barricades are manned by editors, bishops, politicians and other right-thinking people; socially accredited experts pronounce their diagnoses and solutions; ways of coping are evolved or (more often) resorted to; the condition then disappears, submerges or deteriorates and becomes more visible.” (British criminologist Stanley Cohen as cited in McKay-Panos 2005, 180).

At a very basic level, it would be impossible to defend the suggestion that the world remained exactly the same after the terrorist attacks of September 11, 2001. We know that the dramatic events of that day reverberated across the globe, unleashing an explosion of commentary and reflection in the months and years to follow, and we know that the powerful images of that day informed the contours of our subsequent conversations, and quite tangibly, subsequent military actions, invasions and occupations. We also know that torture, civil liberties, civic responsibility, border security, and human rights were not only subject to heightened attention, but were quite specifically embedded in dualistic and civilizational discourses. And, without a doubt, we know that Arab and/or Muslim individuals, as well as those perceived to be Arab and/or Muslim, experienced heightened visibility, surveillance

and policing, all of which were embedded in racialized and racist discourses.¹ Despite these things that we know, there is no clear consensus both inside and outside of academia as to whether we can characterize 9/11 as a fundamental rupture in time.² Moreover, amongst those who do posit this moment in time as causally transformative, there is no firm consensus as to the nature of that transformation.

Citizenship is often described substantively and formally as delineating the boundaries between insiders and outsiders. Yet, it is no great revelation that in the aftermath of 9/11, the supposedly clear boundaries of inclusion and exclusion that citizenship is supposed to demarcate have been heavily and perhaps uniquely tested. Contradictions in the ideals and practices of citizenship are increasingly apparent, with the citizenship of Arab and/or Muslim individuals, as well as those perceived to be Arab and/or Muslim, becoming a particularly vivid illustration of these contradictions. As has been suggested in the American context, it appears that "...one cannot be Arab or Muslim and American at the same time; that being both, one is neither and therefore not quite a citizen; that the hyphen between Arab or Muslim and American is not quite attached (Joseph and D'Harlingue, with Wong 2008, 230). This tenuousness of substantive and formal belonging has clearly found expression in Canada, through an ever-increasing and alarming litany of citizenship exclusions, evictions and supposed anomalies.

Reflecting back on commentary that has considered the impact of these attacks, we might loosely divide this into those focussed on rupture and those focussed on continuity. In

¹ The gravity of which was commented on in a November 18 2005 *Guardian* report by Suzanna Goldenberg in which Goldenberg noted that in the 4 years since 9/11, the United States had detained over 80,000 people in facilities from Afghanistan to Cuba.

² Certainly, there have been legislative and other responses directly related to the September 11 attacks. In the Canadian context, the most prominent legislative response was the rushed drafting and passing of Bill C-36, the *Anti-Terrorism Act* which was granted royal assent on December 18, 2001.

much of the popular commentary falling into the former category, the events of September 11, 2001 are often recoded into the 'idea' of '9/11'. In this recoding, it becomes temporally possible, meaningful and accurate to divide time into pre- and post-9/11 terms. Writing for *The Globe and Mail* just two days after the attacks, Martin Mittelstaedt captures the more immediate, popular, and often liberal and ethnocentric reaction (re)produced over and over again in the mainstream media: "The American psyche has been deeply rattled by the terrorist attacks on the World Trade Center and the Pentagon, *with many people believing the world has irreversibly changed* and that they have witnessed the most shocking news event of their lives" (Mittelstaedt 2001 – emphasis added). Or, as Larsen (2006a) carefully outlines, many academics focused on the '9/11' moment have honed in on terrorism, comparing and contrasting an old, pre-9-11, "nationalist, insurrectionary, or otherwise political-utilitarian" terrorism with the post-9-11 "apocalyptic" and "nihilistic" terrorism (23-24).

Some of the academic focus on discontinuity has been more directional and nuanced. For example, Bhabha (2003) focuses on the discourse of law and the justice system and argues that Canada's *Anti-terrorism Act* represents a sharp digression from accepted legal norms and from evolving *Canadian Charter of Rights and Freedoms* [the *Charter*] jurisprudence (97). Coutu and Giroux (2006) echo this, suggesting that after 9/11, the Supreme Court of Canada exhibited an obvious shift of paradigm from liberty to security (313). Wright (2003) argues that 9/11 had a catastrophic impact on worker's rights, as well as for anti-racism and economic justice projects (7). Even more boldly, Muller (2004) suggests that what is left of citizenship in the post-September 11 world is in fact a "carcass" (280). In a simultaneously politicizing and depoliticizing move, biometric technologies have

“securitized, bureaucratized and scientized” identities, transforming citizenship into the verification and authentication of identity (Muller 2004, 280). For Muller, this radical shift has ultimately stripped away the cultural and ethnic attributes of citizenship (2004, 280). To borrow Duessel’s terminology, in their varied ways, these arguments all suggest a sort of “history splitting” or “New Normal” (Duessel 2002, 1; Larsen 2006a, 7).

In contrast are those commentators that focus primarily on continuity. Beyond the immediate and more popular commentary describing the 2001 attacks as analogous to the attack on Pearl Harbour (Usborne, 2001), the focus on continuity tends to be stressed by those pointing to the importance of contextualizing and historicizing the attacks. Agamben (2005) issued a particularly popular rendering of the moment by problematizing the dominant consensus that 9/11 was an exceptional moment authorizing exceptional state measures via the 'War on Terror'. For Agamben, the discourse of exception and its attendant strategy of ‘necessity’ was, in fact, part of a larger and longer pattern or technique of governance. This stress on the perspective gained by historicizing the crisis has been echoed by others. Roach (2002), for example, argues that while the challenges posed by 9/11 were particularly dramatic and intense, they were not in fact fundamentally different from those challenges faced in the past (895). Globalization, continental integration, an increasing lack of tolerance for dissent, the growing precariousness of the rights of minorities, racial profiling, the over-incarceration of racialized minorities and the stress on a law and order agenda were all trends that were already well established in the 1990s (Roach 2002, 895).

Larsen similarly argues for context, suggesting this focus on ‘newness’ as a ‘fact’ overlooks the socio-political and ideological context fueling the terrorist attacks (Larsen 2006a, 8).³

A good deal of the literature focussing on continuity has been particularly attentive to processes of racialization. Dobrowolsky (2008) describes the change, in part, as one of intensification, wherein the scope of the law and order agenda broadened to include immigrants, refugees, and asylum seekers (471). She writes that in the post-September 11 climate of fear, “...states can flex their muscles with greater impunity, constricting citizenship practices by using national security as a justification” (Dobrowolsky 2007, 636). She cautions, however, that this logic and these powers predate 9/11, and that the explicit targeting and racialization of Arab and/or Muslim Canadians is not new, and instead replicates the intensified white gaze and criminalization of racialized communities from previous periods, such as the Gulf War (Dobrowolsky 2008, 471). In the post-September 11 environment, the use of these powers becomes “more convincing and more compelling” (Dobrowolsky 2007, 636). While the experience of racism is *not* new, its growing public legitimacy, its spread and its “mainstreaming” in major institutions can be described as such (Dobrowolsky 2008, 471). Arat-Koc makes similar points on the significance of 9/11. She suggests that after September 11, “...the definition and boundaries of Canadian national identity and belonging were reconfigured.” (Arat-Koc 2005, 33). This clear discourse of civilizational difference and conflict was new, yet the reconfiguration was old in that it “...revealed certain tensions that were inherent in liberal Canadian multiculturalism from its inception” (Arat-Koc 2005, 33). For Arat-Koc, the post-September 11 period involved a

³ Larsen (2006a) notes, however, that discourses on terrorism have certainly been more prominent since the September 11 terrorist attacks (10).

“...confirmation, crystallization, and rigidification of pre-existing implicit boundaries of a *white* national identity and belonging.” (2005, 33 – emphasis in original).

Also attentive to continuity, Chappell (2006) adopts a governmentality approach, suggesting that September 11 did not necessarily change everything; rather, September 11 broadened the scope of the politically acceptable, creating new conditions of possibility to execute a pre-conceived program (314). Specifically, while the governmentality concerned with the management of risk and the normativity of the white/Western subject predated September 11, the levels and sites of surveillance, self-surveillance and co-surveillance (i.e. citizens surveilling each other) may have shifted (Chappell 2006, 316). On this question of surveillance, Abu-Laban and Bakan (2011) suggest that the ubiquity of surveillance does predate the attacks of September 11, but that the post-September 11 period has legitimized an intensification of state-promoted surveillance as a way to maintain security (276). They move onto describe how in the post-September 11 context, a form of social sorting unique to Israel/Palestine has gone global (Abu-Laban and Bakan 2011, 276).⁴ Consequently, there is a double movement here where a distinctively intense legitimation of anti-Muslim racism in the post-September 11 period has particular roots in the Israel/Palestine context, a context which far predates the September 11 terrorist attacks (Abu-Laban and Bakan 2011, 277).

Narrowing in further, emphasis on continuity resonates even more strongly when considering the impact of 9/11 on the institutional space of the university. As sites of citizenship regulation, universities are particularly important during times of extreme socio-political change. Cole (2005) for example, describes American universities as “fragile

⁴ In this context, “Palestinianization” refers to the generalization of a sense of fear and threat of those who are “socially sorted as ‘terrorists’” (Abu-Laban and Bakan 2011, 276-277).

institutions” that have “historically caved to external pressures at key moments”, especially times of national fear, for example the Red Scares that followed the two World Wars (10). Yet, while universities are certainly hierarchical sites of surveillance, they are also sites where “intelligent political discourse remains possible” (Beinin 2004, 102).

Beinin (2004) and Cole (2005) stress 9/11 as a moment of rupture. Speaking specifically about critical scholars and activists working on topics relevant to the Middle East, Beinin (2004) argues that since September 11, 2001, “...supporters of George W. Bush’s Manichaeon view of the world have mounted a sustained campaign to delegitimize critical thought about the Middle East” (101-102). Here, the fears of American people have been exploited to “...intimidate and defame ordinary citizens, public figures, scholars who study the Middle East and the Islamic world and elected officials who have publicly criticized the Bush administration’s war on Afghanistan, the prospect of an endless ‘war on terrorism’, the assault on Iraq and the indulgence of Israel’s repression of the Palestinian people.” (102) Cole (2005) echoes this, describing the post-September 11 period as one of a rising anti-intellectualism, citing attacks on professors Joseph Massad, Judith Butler, Rashid Khalidi, Ward Churchill and Edward Said, as just some examples of “another era of intolerance and repression.” (2005, 5).

In the context of Canadian universities, it is also unclear as to what changes can be linked causally to this ‘9/11’ moment. Stressing continuity, Hamdon and Harris (2010) speak to the Canadian context and explain that since roughly the McCarthy era, universities have become increasingly dangerous spaces for dissenting scholars and students, especially with respect to efforts to curtail and stop critique of neoliberal and neoconservative economic and social issues (64). Giroux (2006) similarly points to a longer historical lineage

when considering changes in academic institutions after September 11, 2001. He writes that the attacks on September 11 contributed to the strengthening of conservative forces already in place in American society, providing a “new dynamism for the right-wing attack machine and pedagogical infrastructure...” (Giroux 2006, 7). What would change would be the normalization of conservative ideas that would previously have seemed “disturbing” or “disturbed” (Giroux 2006, 7). In this context, the presumed abnormal or atypical becomes acceptable, particularly given that it is entrenched and aligned with “...a culture of fear and insecurity (im)mobilized by the call for patriotism and national security.” (Giroux 2006, 7). In terms of the institutions themselves, prior to 9/11, universities *were* subject to intense criticism. Universities have been described as too secular, too elitist and too removed from the public (Giroux 2006, 7). The intensity of this hostility was heightened after September 11, but according to Giroux, the goal remained the same: “...to remove from the university all vestiges of dissent and to reconstruct it as an increasingly privatized sphere for reproducing the interests of the corporations and the national security state.” (Giroux 2006, 7). So, in *this* context,

...criticisms of Israeli government policy were labeled as anti-Semitic; universities were castigated as hot-beds of left-wing radicalism; conservative students alleged that they were being humiliated and discriminated against in college and university classrooms all across the country; Ward Churchill became the poster boy standing in for all faculty left of Bill O’Reilly; McCarthy like black lists were posted on the Internet by right-wing groups such as CampusWatch, ACTA, Target of Opportunity.... (Giroux, 2006, 7).

For Giroux, long before September 11, neoliberal and right-wing activists viewed the university as a threatening space, or as “one of the last strongholds of liberal dissent and secular inquiry” (2006, 4).

And still yet, beyond those that suggest that September 11 2001 was a rupture, and those that describe it more as a tangible entrenchment or confirmation, are those that draw temporal lines *outside* of the 9/11 time frame. For example, while Razack (2008) suggests that in the past “Canadians have had relatively little trouble with the idea of schoolgirls wearing the hijab or with prayer rooms for Muslims and other groups” and that this “greater ease” has seemed to disappear after September 11, 2001 (174), Hoodfar et al.’s account is compelling in their suggestion that it was in fact the 1991 Gulf War that resulted in the harassment of and discrimination against Muslim individuals and communities, especially Muslim women who wear some type of Islamic veil (Hoodfar et al. 2003, xi). For Hoodfar et al. (2003), it was the Gulf War that marked a turning point or “wake-up call” to the post-Cold War reality where Islam and Muslims are demonized (xi).⁵ Similarly, Roy (2010) suggests that while it might be impossible to pinpoint a defining moment of change in the United States that is similar to 1989 and the fall of the Berlin Wall for Europe, the tenor of the debate on the Israeli occupation altered perceptibly with the 2003 Iraq war and not September 11, 2001 (25).⁶ Or, among critical scholars or activists, there has been a refocusing on “other” 9/11s - for example, September 11, 1973, the date marking the CIA-backed military coup which ousted democratically elected Chilean President Salvador Allende with the brutal dictatorship of Augusto Pinochet.

⁵ Bhandar also stresses continuity, writing that conflicts over the ability of Muslim girls and women to “freely veil themselves in different forms” have been articulated in: “...various idioms that recall long-standing political questions over how the nation ought to manage racial and religious difference, as a conflict of individual religious rights versus the interest of the broader community or nation state, as an expression of differences that breaches the limit of tolerance and minority practices, or alternatively as a violation of an ethos (or state principle) of secularism” (2009, 302). See also Edward Said’s, *Covering Islam: How the Media and the Experts Determine How We See the Rest of the World* (1997), where he posits the 1979 revolution in Iran as formative in terms of the American (mis)coverage of Islam.

⁶ Roy suggests that this change was linked to declining American credibility in the region, rising domestic and international criticism of the Gulf War, as well as Bush administration distortions and propaganda (2010, 25).

While the examples above are indicative of some of the major threads in this conversation on the nature of the impact of the events of September 11, they do not, of course, fully represent the breadth, complexity and flux this area of commentary has undergone in the past 15 years. Nonetheless, for the purposes here, there are two points to take away from this overview of the scholarship on the impact of 9/11. First, the choice to focus on continuity and/or discontinuity is itself meaningful given that this choice represents a commitment to a particular kind of narrative about time, crisis, and change. How we understand what did or did not happen because of September 11 stimulates a broad category of questions related to how we account for continuity and rupture in our analyses, our analytic presumptions about time and crisis, and how we are invested in particular accounts of change. Second, the debates over the impact of 9/11 demonstrate how the questions: 'What changed? For whom did it change? How did things change?' lead us down different analytic paths.

The dominant analytic path that looks at citizenship in the field of Canadian politics is that of liberal theories of differentiated citizenship. These voices have tended not to consider the politics of race and the processes of racialization when thinking about change, citizenship and identity. In this way, the 'diversity' narrative for ethnocultural minorities or citizens racialized as non-white has been remarkably static in the mainstream Canadian liberal citizenship literature, with contributors often describing Canadian history as a relatively uncomplicated narrative of liberal progress (Brodie 1997, 229). Implicit in this literature is the presumption that 'new' ethnic, racial and Indigenous diversity has successfully displaced the traditional French/English dualism, and that a culture of participation has erased an old culture of 'deference and authority' (See for example Cairns

1995, 114-117). This temporal move marking a rupture between old and new is significant in that it requires a particularly de-historicized understanding to read the contemporary moment as *necessarily* progressive. Will Kymlicka (2007), perhaps the dominant voice of liberal theories of differentiated citizenship, replicates this linearity in his description of the waves of progressive liberalization that have caused the substantive evolution of multicultural liberal democratic citizenship. Exemplifying the type of power inversion required to sustain such a vision, Kymlicka articulates that the defining moments in Canadian political history are those when various assimilationist policy proposals were rejected (Kernerman 2005).

Outside of this mainstream liberal work, a compelling body of critical scholarship explicitly challenges the liberal citizenship story and focuses instead on the ways in which citizenship has always been precarious for bodies racialized as non-white. Whereas the liberal literature tends to focus on belonging, rights and entitlements, this body of work has taken a more multidimensional approach to citizenship, looking at legal/formal and substantive citizenship, rights and entitlements, as well as the role of the economy and the state, and ideology and/or discourses of power. For example, challenging the inversion apparent in Cairns' and Kymlicka's work, scholars such as Alfred (1999, 2005), Coulthard (2014), Ladner (2003, 2005), Simpson (2014) and Green (2001, 2003) have vividly contextualised Canadian politics as situated within an ongoing colonial project. Dhamoon and Abu-Laban (2009) focus on three historic instances of racialization in the context of national insecurity in Canada, demonstrating not only how discourses of foreignness, nation, racialization, and security reveal historical patterns of Othering and nation-building, but how this historicization invites us to consider "how practices of Othering and re-nationalization

may be operating” in the post-September 11 context (180). In contextualizing contemporary citizenship as growing out of specific gendered, racialized and classed historic, material, ideological and/or discursive conditions, Bannerji (1996, 2000), Thobani (2007), Abu-Laban (1999), and Stasiulis and Jhappan (1995) have also added critical pieces to a body of scholarship that ultimately complicates the liberal citizenship story by reconsidering the three aforementioned questions, ‘What changed, how did it change, and, critically, for whom did it change?’.

Stepping back a bit more broadly, the contention here is fourfold. First, citizenship lineages and trajectories are far from self-evident. In Canadian political science, particular citizenship narratives (i.e. liberal theories of differentiated citizenship) have dominated our understandings of citizenship change. Second, these dominant narratives rely on consistent exclusions with respect to how we conceptualize citizenship itself. Third, these exclusions or erasures shape how we think about change. Fourth, attention to these exclusions calls for a different approach to citizenship that will ultimately change how we understand citizenship trajectories and the governance of particular groups of non-normative, marginalized or dissident citizens and non-citizens.

0.3 RESEARCH QUESTION AND CORE ARGUMENT

While dominant narratives might focus on the ‘newness’ of this post-9/11 moment, the starting point for this research emphasises that Canadian citizenship has historically been precarious for non-normative, marginalized and/or dissident citizens, particularly those racialized as non-white. Focusing in on Canadian citizenship, how then, to make sense of the events of September 11, 2001, particularly given that mainstream liberal theories of differentiated citizenship have been ill equipped to describe the citizenship experiences of

those who depart from the citizenship 'norm'? In this vein, this research asks: 'Have Canadian citizenship discourses and practices fundamentally changed after the terrorist attacks of 9/11, and if so, how?'

To answer this question, I bring together empirical evidence derived from print media accounts, as well as Canadian Federal Court, Federal Court of Appeal, and Supreme Court of Canada decisions between 1980 and 2010. These are used to track three key areas in which the assumptions around governing and citizenship were subject to intense contestation in the post-9/11 context: 1) discourses of multiculturalism, the issue of reasonable accommodation, and the anxiety over the veiling practices of some Muslim women; 2) discourses of civil liberties and the suppression of academic freedom in the context of organizing for Palestinian rights at Canadian universities, and; 3) discourses of security and Canada's controversial security certificate program. While at first glance these intensely controversial cases seem unique in and to the post-9/11 period, this research traces the lineage of each controversy back prior to September 11, 2001. By identifying parallels and continuities across the pre- and post-9/11 periods, this research focuses on continuity in order to complicate, disrupt and depart from dominant understandings that position the terrorist attacks of 9/11 as a fundamental shift in politics as we know it, or more specifically narratives which suggest that the terrorist attacks of 9/11 interrupted a history of relatively uncomplicated liberal progress. In addition to empirically tracing this historical lineage, at a theoretical level, this dissertation treats citizenship as a form of regulation, and draws on the work of Giorgio Agamben, David Theo Goldberg, Holloway Sparks and Rita Dhamoon to confront three main gaps in mainstream liberal theories of differentiated citizenship: the neutralization and erasure of processes of racialization, as

well as a lack of consideration of the regulation of citizenship through securitization and notions of dissidence.

In adopting this theoretical approach to the evidence, I argue that the intense regulation of marginalized, non-normative and dissident citizens in Canada was not made possible by the terrorist attacks of 9/11. Put differently, while certain modes of citizenship regulation did shift after 9/11, Canadian citizenship discourses and practices did not change in a fundamental way because of the terrorist attacks of 9/11. At an empirical level, I demonstrate that these seemingly unique post-9/11 case studies are quite literal reiterations of discursive and regulatory moments that significantly predate the terrorist attacks. At a theoretical level, I argue that approaching citizenship as a status, an institution or an assemblage of rights and responsibilities is theoretically limited and limiting, and that by treating citizenship as a form of regulation, and by centering how processes of racialization, securitization and ideas of 'dissidence' are integral to how we are governed as citizens, an alternative understanding of citizenship change is available, one that accounts for the experiences of marginalized groups. In neglecting these integral forms of regulation, liberal theorists of differentiated citizenship offer partial and analytically limited analyses of change and crises. Moreover, I argue that liberal temporalities of progress have essentially untethered understandings of power meaning that power can be easily reversed in liberal narratives of citizenship. These radical inversions of power require work to sustain them. In this way, our narratives of time and change, or our choice to focus on rupture or continuity are deeply political.

These empirical and theoretical arguments have a number of implications for how Canadian political scientists theorize citizenship in a Canadian context, including:

reevaluating the conventional 'cues' or signals we use to measure or assess citizenship and progress; accounting for the differential nature of regulation; complicating how we theorize the relationship between citizens and non-citizens; taking account of the transnational nature of the regulation of citizenship, and; ultimately, reconsidering the value of frameworks of belonging in analyzing citizenship. In this way, by adopting an integrative theoretical framework, this dissertation: 1) disrupts and challenges the dominance of liberal citizenship theory; 2) develops not only multidimensional conceptualizations of citizenship, race, identity and power, but also considers feminist interventions on intersectionality in order to manage this analytic complexity, and; 3) confronts the erasure of civil liberties and security within citizenship studies, as well as the neutralization and erasure of racialization in the literature on multicultural citizenship. The end point is to craft a rich, multi-layered analysis and analytic framework that reinserts historicity, context and politics into the citizenship story.

This latter point on the erasure of race is of particular importance. The consistent analytic submerging of race in Canadian political science and Canadian citizenship studies has important consequences for the integrity of the field. Our understanding of 'who' is directly tied to how we draw correlations, identify moments of transition and change, assess the political significance of events, understand political motivations, conceptualize the exercise of power, and make sense of unanticipated actions and consequences. Put succinctly, as Abu-Laban and Nieguth (2000) demonstrate, inclusion of Subjects, processes and discourses that have been hitherto ignored can substantively change our analytic perceptions of the power and influence of critical political institutions, as well as alter our conceptions of what triggers political change. In addition, the consequences of the analytic

submerging of race are extreme, ultimately erasing a particular class of political subjects, a particular technology of political power, as well as the material history of the Canadian state and the discipline's implication in it. The erasure of race further limits how we conceptualize other forms of domination and resistance given that race exists in complex and constant interplay with other structuring forms of identification. As Thompson rightfully suggests, disciplinary lag, "...whereby political science becomes disconnected from the society it purports to analyze", gives us reason for concern (2008, 536).

0.4 ORGANIZATION OF DISSERTATION

This dissertation is organized as follows. In Chapter 1, I introduce the theoretical and methodological frameworks used to orient my research questions, contextualize my analysis of the data, and frame and generate my findings. At the conceptual level, this chapter provides an overview of citizenship theory in Canada, focusing on the dominance of interventions by liberal theorists of differentiated citizenship in order to flesh out their conceptual, theoretical and analytic limitations. In identifying gaps and limitations, this chapter sets up the rationale for my theoretical framework. Here I situate my research within a number of key strands of literature, including: 1) the securitization approach and Giorgio's Agamben's work on the state of exception; 2) Foucauldian work on power, knowledge and governmentality; 3) critical race scholarship, with a particular focus on David Theo Goldberg's work on the racial state; 4) Holloway Spark's notion of dissident citizenship, and; 5) feminist work on intersectionality, including Rita Dhamoon's work on regulated inclusion. These literatures root the dissertation's focus on citizenship in the concepts of regulation, the racial state, dissident citizenship and regulated inclusion, and inform the

structure of the discourse analysis of each of the three case studies. The chapter ends with a discussion of my case study selection as well as my methodology.

Chapters 2, 3, 4, 5, and 6 provide a detailed within-case analysis of each of the case studies used in this research, beginning with the issue of reasonable accommodation, and the anxiety over the veiling practices of Muslim women (Chapter 2), and then moving onto discourses of dissent and the suppression of academic freedom on Canadian university campuses in the context of organizing for Palestinian human rights (Chapters 3, 4 and 5), and finally a focus on discourses of security and Canada's security certificate program (Chapter 6). The case studies all begin with a brief description of the socio-political and legislative context of the issue area, the discursive context, and a consideration of how liberal theorists of differentiated citizenship might view the case study. The substantive core of case study involves an analysis of key texts in the pre- and post-September 11 period. Each case study culminates in an analysis that compares both the pre- and post-9/11 time periods to identify any trends and threads that are similar or discontinuous.

My concluding chapter, chapter 7, involves the integration of the analyses of all the case studies in order to craft a composite citizenship story. After this, my research findings will be summarized and conceptual, theoretical and analytic implications for the discipline will be drawn, in order to answer the overarching question posed in this research: 'Have citizenship discourses and practices changed in Canada after the events of September 11, 2001, and if so, how? I argue that despite presumptions to the contrary, the intense forms of regulation to which marginalized, non-normative and dissident citizens have been subject to in the post-9/11 period, significantly predate the terrorist attacks of 9/11. Not only does this challenge the contention that 9/11 constitutes a fundamental rupture in political time,

but it challenges the dominance of liberal temporalities in Canadian citizenship studies by demonstrating that citizenship is a form of regulation that operates intrinsically through racialization, securitization and the containment of dissidence, and that narratives of political time are deeply political.



Chapter 1: Theoretical Issues and Research Methodology

1.1 INTRODUCTION

This chapter lays out the conceptual, analytic, and methodological frameworks for this dissertation. Broadly, I review trends in citizenship research in and on Canada, assessing the strengths and the weaknesses of the mainstream liberal theories of differentiated citizenship. As articulated in the introduction to this dissertation, three questions – *What has changed, for whom have things changed, and how do we measure change?* – provide a broad structuring framework for answering the main research question underscoring this dissertation: ‘Have citizenship discourses and practices changed in Canada after the events of September 11, 2001, and if so, how?’ Critically, these three questions are deeply interrelated and inform one another, with each addressing a key conceptual, theoretical and methodological dimension of this research.

What has changed? Given that this dissertation is essentially a citizenship study, at a *conceptual* level, this chapter starts with a working understanding of how citizenship is conventionally approached in the literature, as well as how and why this understanding has been contested. Put differently, in order to contemplate change the first step is identifying the point from which change is measured. This begs a fundamental series of questions: Where do we ‘find’ citizenship, where do we tend to look for citizenship, and where might we consider looking? In exploring these questions, this chapter unpacks the conventional narrative of the citizenship trajectory, all the while considering how this narrative of change/progress has been challenged. While the answer to the question, ‘What has changed?’ ultimately comes after the data has been gathered and analysed, this conceptual

groundwork must be laid first. To this end, I survey the literature dealing with citizenship, and focus on mainstream and critical approaches to citizenship as a concept, highlighting the appeal of adopting an approach that understands citizenship as a form of regulation.

For whom have things changed? Following from the conceptual groundwork is this largely *theoretical* question that exposes the silences and omissions already noted in the mainstream citizenship story in Canada. At its crux, the theoretical lens elaborates on the s/Subject of citizenship but also quite critically reorients and repositions the kinds of questions that are asked about the citizenship story. Here I outline a number of guiding tensions in the mainstream literature, particularly the tension between principles of universality and the politics of difference. In addition, I discuss how notions of race, security and dissidence open up opportunities for new citizenship conversations.

How do we measure change? The final section of this chapter focuses largely on methodology, but is also analytic in its orientation in that I consider the conceptual (i.e. where to look for change) and the theoretical (i.e. how best to capture the s/Subject of citizenship).

In exploring these three questions, this chapter argues that the mainstream liberal approach to Canadian citizenship in CPS is conceptually, theoretically and analytically partial. With the sites and scales of citizenship in flux, the task of identifying and locating citizenship discourses and practices has not only been complicated, but also requires a multidimensional approach to citizenship, identity and power in order to more precisely navigate the question of change. Foucauldian, critical race and securitization approaches denaturalize the bounds of a profoundly liberal conversation and illuminate how the

penalties and prizes of citizenship discourses and practices adhere differentially to citizens, a process intrinsic to how citizenship regulates.

1.2 LITERATURE REVIEW

There are four main bodies of scholarship that comprise the theoretical framework of this study: 1) the securitization approach, as well as Agamben's (2005) work on the state of exception; 2) Foucauldian work on power, knowledge and governmentality; 3) critical race scholarship, with a particular focus on Goldberg's (2002) work on the racial state, and; 4) feminist work on intersectionality, including Rita Dhamoon's (2013) work on regulated inclusion, as well as Brubaker and Cooper's theorizations on identity. As a package, these bodies of scholarship reorient the questions we ask about citizenship, deepen our understanding of government, the state and governance, and provide us with tools to capture context.

Moreover, together these bodies of scholarship: 1) disrupt and challenge the dominance of liberal citizenship theory; 2) develop not only multidimensional conceptualizations of citizenship, race, identity and power, but also through feminist interventions on intersectionality offer ways to manage this analytic complexity, and; 3) confront the erasure of civil liberties and security within citizenship studies, as well as the neutralization and erasure of racialization in the literature on multicultural citizenship.

Following from the research questions outlined above, this review begins to lay the conceptual groundwork of this project by providing an overview of the mainstream literature on citizenship, as well as the main conceptual and theoretical trends evident in this body of work. The review also highlights key challenges to the canon, and pays particular

attention to how change and crisis have been approached in both the dominant and critical citizenship literatures.

1.2.1 Why citizenship?

Since the 1990s, we have witnessed a remarkable revival of interest in the topic of citizenship (Jenson 2006, 3; Kymlicka and Norman 2000, 1; Purvis and Hunt 1999, 458). One can identify numerous reasons for what Kymlicka and Norman (1994) have termed the “return of the citizen”: the rise of nationalist movements in multinational states, including resistance and sovereignty movements of Indigenous peoples; rising rates of migration and statelessness; the erosion of social rights; increasing attention to a borderless international regime of human rights, and; the post-September 11 increasing suspicion of naturalized citizens from countries with large Muslim populations (Jenson 2006, 3). Alongside this resurgence of interest in the topic of citizenship, the language of citizenship has been remobilized by various groups (i.e. feminists, environmentalists) to articulate a wide range of claims and demands. On the one hand, citizenship is, as Barry (2006) explains, interesting in that “the formalization and codification of citizenship are social phenomena with sociologically interesting effects” (58). Yet, beyond being intellectually or conceptually interesting, citizenship is a lived phenomenon that bears the imprint of years of mobilization and struggle to gain access to its varying privileges and promises. In this sense, the interest in citizenship is heavily rooted in experience, particularly if the perception or experience is such that the promises of citizenship are eroding, under threat, or exposed as false.

The Starting Point for Locating Citizenship? T.H. Marshall

As Dobrowolsky has noted, in the past number of decades, scholars and policymakers have been offering increasingly nuanced analyses and accounts of citizenship, variably

focusing on citizenship as a political discourse, as a legal practice, as an expression of ideals, statuses and practices (2007, 630). And, while this extremely robust body of scholarship exists on citizenship, citizenship has generally been understood as "...a status of equal membership within a bounded polity" (Bauböck and Guiraudon 2009, 439). Since the late 1980s, both dimensions of this description have been increasingly challenged, with contemporary debates focussing on boundary transgression as well as on more complex notions of equality informed by the increasing political salience of particular categories of identity (Bauböck and Guiraudon 2009, 439). Put differently, there is a gap that is growing between citizenship in theory and citizenship in practice (Dobrowolsky 2007, 630).

Set within a context of global insecurity, the social, economic and political dimensions are eroding (Dobrowolsky 2007, 630). Dobrowolsky (2007) links this erosion to the ever-increasing mobility of capital, as well as to the global response to the September 11 terrorist attacks, and to intensified patterns of global im/migration (630). There are different ways that we can read these contradictions, anomalies or productive exclusions. The mismatch may simply be a signal that the sites and scales of citizenship are in flux, and that citizenship is being challenged by non-traditional modes of belonging and identity in a globalizing world. At the same time, however, some conventional dimensions of the state, borders and sovereign power are rigidifying. For the sake of ease, we might suggest that the renewal of interest in citizenship has paralleled a series of trends that have weakened the post-war Keynesian consensus on citizenship, the economy, and the state. From this perspective, one might consider citizenship to be a sort of sliding signifier that will eventually reconfigure and 'fill-up' according to changing context.

Alternatively, we might conceptualize these anomalies as integral to how liberal citizenship governs. Here, the ambiguous status of non-normative or dissident citizens, and the challenges that citizenship is being faced with signal that the dominant orthodoxy on citizenship is being exposed as tenuous, political, elitist and oppressive. Moreover, the ambiguous status of the citizen, or particular kinds of citizens, has an intimate relationship with the fundamentally precarious status of non-citizens; however this relationship is not one of simple inversion. It is through this latter rendering that I am entering into this discussion.

Regardless of how this gap is characterized, there is increasing consensus that conventional understandings of citizenship cannot adequately explain an increasing list of anomalies that challenge both dimensions - equal membership and bounded polity - of this thin description of citizenship (Bauböck and Guiraudon 2009, 439; Weber 2008, 129). Many of these supposed anomalies seem to signal a problem with the universality presumed by liberal citizenship. In this, we see a tension between the lived realities of citizens and liberal citizenship's normative and descriptive promises and dimensions.

Canonically, T.H. Marshall's tripartite formulation of civil, political and social citizenship rights in *Class, Citizenship and Social Development* is generally taken up as the starting point for contemporary discussions (Marshall 1965; Devlin and Pothier 2006, 146; Lister 1997a, 29). For Marshall, citizenship was ultimately a status to ensure that all individuals are treated as full and equal members of a society; this equality of membership is actualized by according citizens with an increasing numbers of rights (Kymlicka and Norman 1994, 354). In addition, as Kymlicka and Norman explain, Marshall focussed on passive or private citizenship, emphasizing passive entitlements without an obligation to

participate in public life (1994, 355). In addition, underscoring the Marshallian conception of citizenship is the presumption that the fullest expression of citizenship requires a liberal-democratic welfare state (Kymlicka and Norman 1994, 354).

While still widely supported in many quarters, Marshallian citizenship has been subject to extensive criticism. By and large, critics have attempted to expand and deepen Marshall's model by emphasizing the flexibility of social membership, by exposing the limitations of equating citizenship with rights, and by challenging Marshall's erasure of 'identity' and difference (Isin and Turner 2007, 5). From the right end of the spectrum, critics have charged Marshallian social rights as being not only economically inefficient, but fundamentally inconsistent with negative freedom/justice (See for example Barry 1990). As Kymlicka and Norman explain, these critiques are related to a larger cluster of commentary on the need to supplement or replace Marshall's passive or private citizenship with a more active citizenship that stresses civic responsibilities and virtues (1994, 355-369). More fundamental challenges have also been advanced, with traditional Marxists tending to dismiss citizenship rights as an "individualistic bourgeois charade, designed to obscure fundamental economic and social class divisions behind a veneer of equality" (Lister 1997a, 30). In addition to probing boundaries of inclusion and exclusion, the realms of the public and private, and their correlation to valued productive (read: male) labour and devalued reproductive (read: female) labour, feminists have posed equally profound questions, asking "...whether a concept, originally predicated on the very exclusion of women can be reformulated so as satisfactorily to include (and not simply) append them..." (Lister 1997b, 195).

More critical and self-reflectively political interventions have taken issue with Marshall's neglect of gender, race and ethnicity, asserting that the Marshallian conception of citizenship took the definition of the citizen for granted (Isin and Turner 2007, 8). These contemporary reflections demonstrate more care and attention to changing identities, as well as to power and 'identity', ultimately forcing analysts to step back and ask the fundamental question, 'Who is the citizen?' (Isin and Turner 2007, 8). Critical theorists have disrupted the myth of the unmarked national citizen by demonstrating how access to formal citizenship and its attendant rights echoes one's positioning within "intersecting social and moral hierarchies" (i.e. race, national origin, class, gender, sexuality, North-South relations, etc...) (Stasiulis and Ross 2006, 338; Lister 1997a, 30). In this sense, citizenship is not substantively universal; it embodies layers of hierarchies wherein the moral, intellectual and fitness criteria for the 'good' citizen are located within specific national and civilizational mythologies at particular historical moments (Stasiulis and Ross 2002, 338).

For the purposes here, this moment in which the sites and scales of citizenship are in flux not only complicates how and where one locates citizenship discourses and practices, but it also suggests that the traditional Marshallian foci on rights and passive entitlements is unduly narrow. If Marshall's narrative is just one story of citizenship, reconsideration of the question, 'Who is the citizen?' becomes an integral first step in thinking through how one understands changes to citizenship across time.

1.2.2 Conceptual Trends in the Citizenship Literature

Bosniak has categorized the study of modern citizenship into four main perspectives: 1) citizenship as a legal status; 2) citizenship as rights; 3) citizenship as participation, and; 4) citizenship as identity and solidarity (Brodie 2002, 379). While citizenship is classically

analyzed as referring to the nation-state and nationality, ambiguities and shifts around state boundaries have demonstrated the ways in which citizenship may be less an *expression* of belonging to a national community, and more so a *practice* of belonging (Procacci 2004). In this sense, we can make an even broader distinction in how citizenship has been approached in the literature, and in doing so identify a key parameter that may inform how we perceive change in the context of citizenship. On the one hand, citizenship is described as formal in that it represents institutional-political acceptance, while on the other hand, citizenship is described as substantive in that it represents practical-cultural acceptance (Arat-Koc 2005, 41). Consequently, 'full' citizenship has tended to imply membership in a bordered community based on two dimensions: 1) ascribed legal status, or the status of individuals with respect to a political authority, and; 2) the relationships of belonging, 'identity', engagement and solidarity that exist amongst members (Barry 2006, 57; Jenson 2006, 4, Macklin 2006, 22).

Troubling the Boundaries between Formal and Substantive Citizenship

In the mainstream literature, formal citizenship has generally been treated as an analytic constant given the assumption that legal citizenship clearly delineates who the state considers to be a full member, how membership is transmitted, and how citizenship can be gained, lost and reclaimed (Barry 2006, 58). Legal citizenship is also described in terms of access to rights, entitlements and protections (Barry 2006, 58). From this basic position, citizenship is generally understood to connote "...membership within a bordered territory and an internationally recognised state and defines the relationship between the individual and the state, ever increasingly through the language of rights" (Brodie 2002, 379).

While citizenship has tended to be described as a set of contributory rights, obligations and duties, it has remained open to debate as to whether citizenship defines belonging through entitlements associated with service (Isin and Turner 2007, 5) or if rights and obligations flow from membership and the presumption of equality (Lister 1997a, 29). In any case, the key dimensions of citizenship are generally understood as membership in a community, rights and obligations, and equality (Lister 1997a, 29). In the context of Canada, the strong formal institutionalism in Canadian political science has meant that a good deal of commentary has focussed on citizenship, rights and the constitution, however the ongoing focus on 'identity' has meant that substantive citizenship has been a major focus as well.

More critical work has pushed the analysis further, focussing on identity/identification, belonging, and power (Jenson and Phillips 1996, 114), with belonging characterized both vertically (social relationships between individuals and the state) and horizontally (relationships between individual citizens) (Lister 1997a, 29). Here, the bounds between formal and substantive citizenship are blurred as citizenship is more appropriately described as a constellation of ideas, ideals and practices, sometimes descriptive but more often than not, having a strong normative connotation (Devlin and Pothier 2006, 145). Descriptively, substantive citizenship *does* speak to rights, entitlements, obligations, duties and other legal, social and political practices, however, normatively, these cannot be separated from political conceptions of which individuals are deemed active, participatory and functional political subjects (Macklin 2006, 23). Consequently, in moving beyond citizenship as simply a descriptive status, this body of work has illuminated the ways in which citizenship operates as a signifier of loyalty as well as "a normative utensil for discursively alienating those unworthy of the status" (Macklin 2006, 48).

In doing so, scholars have disrupted the assumption that the boundaries of the state are contiguous with *meaningful* citizenship. Rather, belonging, or citizenship, is better characterized as tiered, differentiated and sub-national, with even some of the more mainstream commentators such as Cairns paying attention to “domestic foreigners” or “fellow strangers” (Jenson 2006, 4). In showing that the boundaries and content of citizenship are not only tethered to passports or borders, these interventions have demonstrated how the parameters of citizenship are intimately connected to a material history or political economy of gender, race and class (Stasiulis and Jhappan 1995; Thobani 2007; Bannerji 2000). Theorists have also contemplated what we might consider meaningful citizenship to be, with feminists playing a key analytic role in disrupting boundaries of public and private, but also with critical scholars considering inclusion, participation, presence and material well-being as key dimensions of citizenship/belonging.

Despite these important challenges, in the Canadian context, one might suggest that both mainstream and some critical interventions have tended to move too far in the direction of focussing on some of the more esoteric dimensions of belonging at the expense of deeply analysing the formal and legal dimensions of citizenship. As Macklin (2006) argues using the case of the Khadr family as an example, ambiguities in legal citizenship still exist, therefore we would be mistaken to focus exclusively on substantive citizenship. For Macklin (2006), scholars of substantive citizenship have taken for granted that legal citizenship is universal, irrevocable, hence a theoretical constant that can be controlled for (24). In fact, Macklin notes that the security agenda has been “gnawing away at legal citizenship from the inside” (2006 36).

Particularly successful interventions that speak to both the descriptive/formal and normative/substantive dimensions of citizenship have been those dealing with more formalized lines of inclusion and exclusion in the context of borders and immigration (See for example, Abu-Laban, 2000). Stasiulis and Ross (2006) have also demonstrated how the lines of inclusion and exclusion, formal or otherwise, have been demonstrably more tenuous, particularly in the case of citizens with dual citizenship status. Citing Arendt, Jenson (2006) echoes the importance of this disruption, explaining that legal citizenship ensures “the right to have rights” – if this, in itself, becomes ambiguous, “substantive citizenship becomes a hollow shell” (10).

At the same time, we can also safely suggest that conceptually, the analysis of citizenship has been dominated by juridical approaches that focus on the link between citizenship and the institutional processes that sanction inclusion or exclusion within the political space of the contemporary state (Procacci 2004). As opposed to considering other modalities of power, the study of citizenship has tended to pay undue attention to issues of sovereignty and sovereign power, therein emphasizing the legitimacy of the political body and its institutions (Procacci 2004).

In the context of this dissertation, these conceptual trends in the literature suggest a number of key points. First, a full consideration of citizenship must consider both its substantive and formal/legal dimensions. The literature on substantive citizenship has vividly demonstrated that the borders of citizenship are not only contiguous with the borders of the state. This shapes where we ‘look’ for citizenship – institutional sites, but also in less formal sites where discourses of belonging, entitlement and governance are generated and reproduced. Second, formal/legal citizenship cannot be assumed to be a theoretical

constant that can be ignored in citizenship analyses. This is particularly important if we are interested in looking at which dimensions of citizenship have been subject to change.

Redefining Citizenship – Theoretical Consequences

Keeping in mind the shifting sites and scales of citizenship, the narrowness of the Marshallian conception, and the analytic and on-the ground importance of formal/legal and substantive citizenship, we move from the basic starting position that citizenship “...connotes membership within a bordered territory and an internationally recognised state and defines the relationship between the individual and the state, ever increasingly through the language of rights”, to citizenship as a set of juridical, political, economic and cultural practices that not only define the parameters of who is considered a meaningful and capable member of society, but also demonstrate how those parameters have a material consequence (Brodie 2002, 379). We can take this one step further by analytically describing citizenship as a relational, unstable social construct, having no necessary essence, varying across time and space, and being actively negotiated and contested between and by individuals, states, other political communities, and territories (Devlin and Pothier 2006, 145; Stasiulis 2004, 296).

As Devlin and Pothier suggest, this characterization of citizenship as a “manufactured and contextual political artefact” has a number of theoretical consequences (2006, 145). First, citizenship may best be described as a discursive regime that is embedded in a larger matrix of relations of power (Devlin and Pothier 2006, 145). In this sense, citizenship both constitutes and is constituted by other social, economic, and political forces, making one’s conception of the ‘nature’ of the state, the economy and notions of public and private extremely important (Devlin and Pothier 2006, 145). Moreover, if citizenship can best be

described as a discursive regime, our analysis must account for power as both relational and productive.

Second, citizenship codifies and institutionalizes ‘identity’, ‘identities’, or particular modes of identification, anchoring it, in part, in law (Barry 2006, 59). However, as is well demonstrated by the literature on substantive citizenship, the content of identities, and the form and processes of identification are not limited to the legal or juridical sphere. The intimate connection between citizenship and ‘identity’ has conceptual consequences for both. For example, the traditional approach to ‘identity’ in citizenship studies has been that through the designation of citizens, states attempt to “...create a stably coherent population with a shared political allegiance and sense of solidarity, symbolic identification and community” (Barry 2006, 59). Embedded in this particular approach to identity and citizenship is the assumption that citizenship practices generate loyalty among those who are grateful to be included (Jenson and Phillips 1996, 114). In this schema, the arrow of causality points from rights to identity implying that access to rights necessarily generates feelings of belonging (1996, 114). This not only provides for a narrow and simplistic reading of identity, loyalty and the multifaceted interests of the state, but also, critically for our purposes, neglects the *content* of a citizens’ identity: How does one recognize a citizen, what does a model or good citizen look like under each citizenship regime, and what is the model relationship between citizens and the state at a particular moment in time (Jenson and Phillips 1996, 114)?

As Jenson notes, the analytic silence or lack of contemplation of these questions about identity leads to three main tendencies or assumptions in the mainstream literature on citizenship and identity. First, citizenship is not just seen as a part of nation-building, but the

assumption is that national identity necessarily results from an extension of rights (Jenson and Phillips 1996, 114). Second, this vision tends to take the universalist claims of citizenship discourse as 'fact', forgetting that differentiated citizenship exists on the ground (Jenson and Phillips 1996, 114). Even the normatively focussed literature on multicultural or differentiated citizenship tends to reflect this willingness to 'buy into' the initial universalist claim. Third, the society-centric focus of the mainstream liberal literature necessitates an active 'forgetting' that the state not only has an interest in identity, but has an interest in establishing a range of identities, and processes of identification (Jenson and Phillips 1996, 114). Fourth, the mainstream liberal approach to citizenship tends to have a vision of time as either static, or incrementally linear. Finally, this approach to identity neglects not only the content of a citizen's identity, but how that content is governed or managed.

The final theoretical consequence of adopting a conception of citizenship as a "manufactured and contextual political artefact" is that one must recognise that citizenship itself is multidimensional. Citizenship can be described as a juridico-political status, an institution, an activity/practice and a political technology. Moreover, there are qualitative, quantitative, psychological, descriptive, normative/aspirational and disciplinary dimensions to each of those descriptions (Devlin and Pothier 2006, 145). There are three consequences to this understanding. First, a multidimensional understanding of citizenship requires a different approach to considering and measuring change than would a unidimensional understanding of citizenship. Put simply, this orientation allows room for the possibility that certain dimensions of citizenship may stay the same while other dimensions change and that we might be able to make meaning of that relationship. Second, committing to this

multidimensional understanding similarly requires adopting a multidimensional understanding of identity *and* power in the context of citizenship. Finally, in order to characterize change, and specify which dimensions are subject to change, this orientation requires an analytic framework that enables one to manage this complexity.

1.2.3 Theoretical Trends in the Citizenship Literature

Guiding Tensions

Beyond these conceptual discussions and consequences, *en masse*, contemporary research on citizenship has tended to focus on the tensions and contradictions between citizenship and the state, as well as between nationalism and capitalism, by paying attention to issues such as inclusion/exclusion, rights/obligations, population movements, social cohesion, and accumulation (Isin and Turner 2007, 6). More specifically, the field has tended to focus on a circumscribed range of questions that are largely in keeping with the dominance that liberal strains of thought hold within the discipline. In this light, a primary tension at the heart of contemporary Western citizenship studies has been “the actuality of a plurality of social identities and the singular identity implied by citizenship” (Purvis and Hunt 1999, 458). Time and again, the question posed has been: “how does, or can, a concept which has at its core the principles of universality and equality of status accommodate the politics of particularity and difference associated with the new wave of identity politics?” (Purvis and Hunt 1999, 458).

The “Canadian School”

While this may be described as ‘a’ primary tension in contemporary Western citizenship studies, without a doubt this dualism between universality and particularity has

been 'the' dominant thread in Canadian political science's interventions on Canadian citizenship. Consequently, this tension, or the liberal rendering of it, is not only mainstream in Canada, but seemingly canonical. Kernerman (2005) has identified these dominant voices on citizenship as the "Canadian School", with the liberal theorists of differentiated citizenship considered foundational (See for example Angus 1997; Carens 1995; Kymlicka 1995, 1998, 2007; McRoberts 1997, 2001; Resnick 1994; Taylor 1994; Tully 1995; Webber 1994; Whitaker 1991). These theorists are generally pitted against those taking an equal citizenship perspective (See for example Bibby 1990; Bissoondath 1994; Gwyn 1995), concretizing the assumption in the mainstream discipline that there are essentially two antithetical options in our normative vision on citizenship (equal citizenship or differentiated citizenship) (Kernerman 2000, 4). Critically, despite the opposition of these two streams, the dominant conversation on universality and particularity in Canadian citizenship studies is contained within the bounds of a profoundly liberal conversation. The "Canadian School" is primarily concerned with countering liberal detractors by demonstrating or proving that the group-based claims of multicultural discourse or differentiated citizenship are in fact consistent with the values underscoring liberalism.

While the equal citizenship voices most definitely represent a dominant stream in the citizenship conversation, the "Canadian School" is interesting and important particularly given the international take-up of some of its key theorists and their tenets. The rehabilitative work of the "Canadian School" itself is marked by a rejection of the formal equality script and an insistence on the coexistence of unity and diversity within a framework of differentiated citizenship (Kernerman 2005, 6-8). Literature of the "Canadian School" is predominantly normative and tends towards framing nationalist contestation in

often abstract, philosophical terms (Kernerman 2005: 6-8, 37; for example see Carens 1995, Chambers 2001; Ignatieff 1993; Tully 1995; Webber 1994).⁷ In light of the centrality of the ideas of theorists such as Kymlicka and Taylor, as well as the absence of critical distance from the assumptions of liberal theory, a number of trends can be observed in mainstream Canadian citizenship studies.

First, Kymlicka has been particularly influential in terms of identifying and solidifying a tripartite conception of citizenship ‘stakeholders’ in Canada: the Québec and Aboriginal national minorities/historical nations, and ethnocultural minority groups. Not only has this rendering reinforced a distinction between territorial and non-territorial citizenship stakeholders, but the “three silo” approach has tended to distort and essentialize the diversity within these broad categories. Second, the contributions of Kymlicka and Taylor have helped to solidify the presence of multiculturalism in both academic and popular citizenship conversations. In fact, multiculturalism as policy and ideal has been lauded, while simultaneously subject to a consistent level of academic and popular anxiety pivoting on the seemingly irresolvable tension of universality/ particularity or unity/diversity.

Third, the presumption and neutralization of the liberal democratic state has led to simultaneous, but contradictory trends of hypervisibilization and erasure, as well as politicization and depoliticization.⁸ These contradictory trends are particularly visible in conversations on accommodation or integration, as well as on difference and diversity. Here

⁷ With the works of Charles Taylor and Will Kymlicka treated as canonical, this body of scholarship finds its historical legacy in the insistence that we need not make a choice between the secessionist nationalism of the Quebec sovereignty movement and the anti-nationalism of the pro-federalist contingent. In this sense, the ‘other’ citizenship stakeholders, identified as the aboriginal historical nations and ethnocultural minority groups, tend to be read through a lens that has *de facto* prioritized a secessionist/federalist debate.

⁸ This neutralization is complex. As Dhamoon (2013) explains, Canadian theorists of liberal multiculturalism *do* acknowledge that the state is not absolutely neutral in how it recognizes ethno-cultural and religious claims.

Dhamoon (2013) notes that advocates of liberal multiculturalism offer particular versions of legitimated exclusion and regulated inclusion. In the first case, these theorists tend to offer “sophisticated” rationales for excluding particular ethno-cultural and religious practices, often in the name of defending or preserving state neutrality or protecting “minorities within minorities” (11). In the latter case, offers of inclusion are extended but within certain liberal limits (Dhamoon 2013, 11).

Fourth, along with the continual focus on universality and particularity, these contradictory trends feed into a series of polarities (i.e. symmetry/asymmetry, uniformity/variability, unity/diversity, impartiality/ partiality, equality/ difference) that have given the Canadian discourse on citizenship, identity and the nation an especially bipolar and anxiety-ridden rendering of itself and its own stability. Fifth, in its focus on citizenship ‘stakeholders’, the “Canadian School” has had very little to say about non-citizens as well as dissident citizens, begging the question of whether it would be feasible to talk about non-citizens in isolation of formal Canadian citizenship, is the reverse also true? Is there not an integral and fundamental link between citizens and non-citizens that allow them to function and be regulated together?

In the overtly racialized and Islamophobic post-September 11 context, the troubling nature of these guiding assumptions of Canadian liberal citizenship theory has surfaced vividly. As Stasiulis and Ross have remarked, in this time period liberal intellectuals have weighed into a conversation that is largely framed as “the limits of multiculturalism in accommodating difference” (339). In both popular and academic quarters, the subjects of anxiety, or those posing the threat to ‘us’ in terms of their incapacity to integrate and their *essentially* ‘illiberal’ demands for accommodation have quite clearly been Arab and Muslim

citizens and non-citizens (See for example Banting et al. 2007; Kymlicka 2007). While the intensity of the Orientalism of these interventions has varied, the flavour has remained the same with Waseem identifying a number of features of paradigmatic Western Orientalist thinking about Islam that we might similarly locate in Canadian citizenship discourses (Stasiulis and Ross 2006, 339-340).⁹

The “Canadian School” and Gaps in the Literature - The absence of dissent and security

There is robust body of critiques of liberal theorists of differentiated citizenship. Isin et al. (2008), for example, note the ways in which “...*economism* (assuming that questions are merely of economic redistribution) and *culturalism* (assuming that questions are merely of cultural readjustment and accommodation) and the analogous separation of redistribution and recognition have resulted in *essentialist* (assuming that identities are fixed and immutable) and *idealist* (assuming that identities are compliant and floating) approaches and policies” (6 - emphasis in original). Here they challenge this framing in order to more fully capture the way in which “extent (rules and norms of inclusion and exclusion), content (rights and responsibilities), and depth (thickness or thinness of loyalty) of citizenship are being redefined and reconfigured.” (Isin et al. 2008, 12). Others like Bannerji (2000) have challenged appeals to liberal tolerance and have confronted how “diversity discourse portrays society as a horizontal space” (36). Dhamoon (2010b) adds to this scholarship, challenging the use of culture as an explanatory framework, and calling for a shift to a critical politics of meaning-making.

⁹ These include and oppositional and essentialist discourse of the West vs. Islam, the treatment of Islam as monolithic, the “conflation of religion and politics in Islam”, and “...the metaphysics of terrorism, which makes Islamic militancy a self-propelling mechanism” (Stasiulis and Ross 2006, 339-340).

This analysis enters into the discussion of citizenship in the same spirit, but identifies and focuses on three main gaps in mainstream Canadian liberal citizenship theory which leave this body of work theoretically and analytically ill-equipped to describe, map and analyse shifts in the governance of racialized, marginalized or dissident non/citizens. First, mainstream Canadian liberal citizenship theory has tended not to consider the *politics of race and processes of racialization* when thinking about change, citizenship and identity. In this sense, the ‘diversity narrative’ for ethnocultural minorities or citizens racialized as non-white has been remarkably static in the mainstream literature in that it reads as a history of relatively uncomplicated liberal progress (Brodie 1997, 229). This requires a radical de-historicization in order to erase the ways in which Canadian citizenship has always been and continues to be precarious for dissident citizens and bodies racialized as non-white, whether these bodies are formal citizens or not.

Second, the guiding tension in the work of liberal theorists of differentiated citizenship has been that of universality and particularity, or the individual versus the collective. This tension has shaped virtually all notions of crisis and conflict. The imperative to unity and the simultaneous anxiety over diversity evident in mainstream liberal discussions of Canadian citizenship has had an interesting effect on the nature of ‘security’-related discussions in the context of citizenship. While the word ‘security’ is rarely used in the liberal citizenship scholarship, particularly that of the “Canadian School”, issues of stability, and ‘identity’/national crisis figure prominently.¹⁰ The crisis here is framed as one

¹⁰ In the mainstream literature, the security of the nation is addressed, but rarely is the language of ‘security’ used, nor is there attention paid to the productive nature of security or crisis discourses. While Kymlicka does consider the ways in which security makes multiculturalism more challenging in the context of his writing on Eastern Europe in the 1990s, as well as the resecuritization of Muslims, Kymlicka does not address security in relation to power.

of cohesion, with 'diversity' masking a more political rendering of the difference that is deemed threatening and why. Moreover, this absencing of the word 'security' is interesting given that within liberal theory, security itself is often understood as a right or first freedom (Dhamoon and Abu-Laban 2009, 168). This emerges from the social contract idea wherein individuals surrender to the state the power to protect their lives and property (Dhamoon and Abu-Laban 2009, 168). The state is then founded on the promise to secure its members against each other (Dhamoon and Abu-Laban 2009, 168).

Beyond this, the absence of the word 'security' is also significant in at least two ways. First, as Kinsman, Buse and Steedman (2000) note, at the state level, the deployment of national security has consistently been used to regulate citizens labelled dissident or subversive, or put differently those citizens who aim to fundamentally transform social relations or government policy (278). To this we can add that national security has also been consistently deployed to regulate non-normative citizens and non-citizens, or put differently, those citizens whose mere presence threatens to unravel the power structures underscoring status quo social relations and/or government policy. Second, the state's deployment of national security to regulate non-normative and dissident non/citizens has consistently been deeply repressive (Kinsman, Buse and Steedman, 2007, 278). Neglect of this intimate relationship between in/security and citizenship clouds our capacity to capture how multiple modalities of power (sovereign, disciplinary and biopower) circulate simultaneously and productively through citizenship and security discourses and practices. This is important given that the boundaries around citizenship, discursive or otherwise, tend to both harden and sharpen during periods of perceived and actual crisis (Macklin 2006, 48). As Macklin explains, this rigidifying and honing of boundaries is augmented by the

perception of chronic crisis seen to be posed by multiculturalism, binationalism and Aboriginal self-government (2006, 48). In this sense, we know that at a very basic level, citizenship and security are deeply intertwined, and we might fairly suggest that discussions of citizenship and change must consider notions of in/security.

Adding to this, in the post-September 11 context, the absence of discussions of 'security' in mainstream liberal citizenship studies, and the simultaneous and consistent focus on 'diversity' policies (See for example Kymlicka 2007) is not simply troubling because it masks this more political rendering of difference. As Muller (2004) explains, since September 11, there has been a dramatic and often "draconian securitization" of both the politics of borders and bodies (281). Accompanying this has been the tangible, embodied experiences of insecurity for Arab and/or Muslim citizens, as well as those perceived to be Arab and/or Muslim. Anti-terrorism laws and policies do not affect citizens equally, with ethnic and religious minorities bearing the brunt of the consequences of these kinds of legislation (McKay-Panos 2006, 179). Consequently, presumptions of equality and universality in liberal citizenship theory are directly complicated when in/security is considered.

Finally, the erasure of security and the consistent focus on the crisis of the nation has skewed the conversation to one in which the nation or the state is under threat. Within this configuration, the state is treated as the benign guarantor of security, in contrast to a reality wherein the state is often an oppressive agent of insecurity for marginalized groups of individuals. As such, one of the overriding points of interest in this erasure of security in the mainstream citizenship literature is that the fundamental question of 'security for whom?' or the idea that security and insecurity adhere to individuals and groups differently tends

not to be explored. This latter point is important given that critical race scholars and feminist political economists have delved issues of insecurity and security, particularly in the post-September 11 context. By and large however, but for the case of immigration and refugee studies, the disciplinary tendency in Canada has been to treat security studies as relatively discrete from citizenship studies, lending to an artificial and analytically troubling conceptual boundary and a lost opportunity for important cross-field fertilization. In particular recent work on securitization offers especially exciting opportunities to merge critical interventions on security and race, with critical interventions on multiculturalism, ultimately building up a more robust understanding of citizenship than we have seen in the Canadian context. These 'Other' literatures not only have the critical distance from the liberal state that liberal theories of differentiated citizenship do not have, but in being external to it, offer opportunities to ask new and important questions.

With respect to the third large gap in the citizenship literature, notions of belonging have been a key dimension of how citizenship has been conceptualized in the literature. For example, Arat-Koc notes Ghassan Hage's (1998) distinction between passive and governmental belonging, with the former meaning that citizens or aspiring nationals may claim to belong to the nation, and expect to fit into it and feel at home (2005, 41). In the case of the latter, the claim to belong to a nation involves "inhabiting the national will" by actively enjoying the right to contribute to the governing and management of the nation or the state (Arat-Koc 2005, 41). Critically, from this distinction, Arat-Koc draws an important linkage, suggesting that these forms of belonging affect who is able to dissent, what kinds of expectations the citizenry might have about their civil liberties or their right to dissent, as well as the contours or parameters of the discourse of civil liberties, dissent and citizenship

(2005, 41-42). Pressing even further past a critique of narrow notions of belonging, Dhamoon (2013) writes critically of the central place that inclusion politics have held in contemporary political theory. Specifically, Dhamoon calls for caution with respect to the premise and promise of inclusion, particularly given the rehabilitative focus of inclusion politics that “...[reproduces] a hegemonic core by simply re-ordering the margins, even as it expands it” (2013, 7). In addition, Dhamoon describes inclusion as a technology of disciplinary power that can “...mask and obscure the scope and depth of disciplinary and corporeal forces of power [that] maintain economic, political and material inequities” (2013, 8). In this way, inclusion can be profoundly repressive, legitimizing the boundaries around which inclusion is sought or offered, therein coopting and domesticating “radical agendas for social change” (Dhamoon 2013, 8).

Looking at the literature on belonging in Canadian political science, mainstream analyses tend to cluster around passive belonging, leaving civil liberties or dissent outside of this discussion. In the Canadian context, the focus on passive belonging has tended to lend itself to an academic and popular focus on accommodations and integration in the context of discussions of multicultural citizenship. Moreover, the general focus has been one in which the value of inclusion has been idealized, leaving resistance to inclusion largely outside the realm of liberal political analysis.

‘Other’ Renderings and Opportunities for New Conversations

The argument here is that the erasure of race/racialization, security/securitization and governmental belonging in mainstream liberal multicultural citizenship theories analytically limits how we characterize and understand the non/citizenship trajectories and governance of racialized, marginalized or dissident persons in Canada. Three bodies of

scholarship are particularly interesting in terms of the analyses they have produced on the citizenship front, as well as in the possibilities they offer for closing the gaps identified in the former section: Foucauldian-inspired governmentality analyses, securitization theory, and critical race interventions.

Governmentality Approaches

The former work, illustrated in the writings of Richard Day and Eva Mackey, engages in a critical assessment, suggesting that state policies of multiculturalism are disciplinary regimes embodying the “...the modern will to rational-bureaucratic microcontrol and domination” (Day 2000, 208). Governmentality approaches challenge the idea of the centralized, benign, uninterested and relatively passive state that permeates liberal forms of government and conceptions of sovereign power (Murray 2007, 163). This approach also recognises citizenship as less of an institution than as a governmental strategy, challenging the coherence of the citizen by demonstrating that s/he is a historical persona. Moreover, a governmentality approach allows for a framework to analyse how governance does not function solely through states, but through multiple tactics which all work on the conduct of individuals and institutions.

Mackey (2000) argues that what really lurks behind the liberal multicultural mythology of tolerance, accommodation and the celebration of diversity is the dominant white Anglophone Canadian culture and identity (5). Drawing on Foucault’s work on governmentality and panopticism as well as from current feminist theorizing on identity and difference, Kernerman (2000) argues that the multicultural mosaic is a form of liberal governmental rationality designed to manage Canada’s diverse population (80). This management occurs, in part, by constructing a taxonomic framework within which Canadian

subjects are produced as multicultural subjects. The framework may express itself literally, through vehicles such as the census, or it may operate more diffusely through large scale commissions like royal commissions/commissions of inquiry, through federal departments and programmes with the explicit purpose of facilitating and studying various facts of Canadian diversity, to even more diffuse strategies such as the commercialization and the production of multicultural consumers (Kernerman 2000). According to Kernerman, it is through this framework that subjects take part in a process of “mutual surveillance and display to monitor the boundaries of their identities”, a mode and arena of regulation illustrated by the Bouchard-Taylor Commission discussed in Chapter 2 (2000, 80).

Securitization Approaches

Kernerman’s multicultural panopticon and his understanding of multicultural citizenship as a governmentality offers a natural and apt fit with those approaches that have considered security to be a political technology. Drawing from securitization theory, security itself becomes “...an interlocking system of knowledge, representations, practices and institutional forms that imagine, direct, and act upon bodies, spaces, and flows in certain ways” (Muller 2004, 281). Challenging the liberal presumption that security is an *essential* value, the securitization approach offers four important analytic contributions. First, by conceptualizing security as both a political technology *and* a technology of subjectivity that is concerned with governing society as a whole, the securitization approach disrupts the normalization and naturalization of threat and insecurity. Security does not necessarily refer to an objective reality and is instead a process and strategy that actively represents particular categories of people as embodying the threat (Muller 2004, 281; Stasiulis and Ross

2006, 335). Consequently, governing through security necessitates the active production of and insistence on insecurity or the existential threat (Stasiulis and Ross 2006, 337).

Second, securitization theory offers an approach that acknowledges the consequences of moving something out of the realm of the political and into the realm of security. Securitization operates through practices of governing that separates out security from politics. When security is 'deployed' it deactivates political issues into security issues, thereby removing them from the realm of political contestation (Stasiulis and Ross 2006, 335). Given the erasure of security from liberal citizenship theory, this depoliticizing gesture becomes profoundly important especially when the targets of security practices are racialized minorities (Stasiulis and Ross 2006, 335). If we are thinking about citizenship, the expelling or removal of racialized minorities from the political sphere into the security zone is a grossly disempowering transfer.

Third, securitization not only focuses specifically on a dimension of power that is absent from most mainstream citizenship discussions (biopower), but the securitization framework offers a way to consider how different modalities or technologies of power (sovereign power, disciplinary power, biopower) interact within the same political space, process, and time. For example, Bell (2006a) explains that the biopolitical character of security has blurred the distinction between the state as military apparatus and the state as service provider and manager of the citizenry. This different character of power where the life of the population must be secured offers the state a new source of legitimacy in the use of often unchecked militarized and coercive force (Bell 2006a, 156). However, this new source of legitimacy co-exists with traditional state-centric ideas about "what it means to be secure, who is to provide security and by what means" (Bell 2006a, 156). This approach

exposes the variable circulation of power throughout the political body as political, thereby challenging the neutrality of the liberal state. In tandem with Kernerman's multicultural panopticon, the notion of biopower adds more dimension to how we view political subjectivity. As opposed to the liberal story, the power in this story is deeply productive, accounting for, managing, and producing subjects on the basis of behavioural potentialities (Bell 2006b, 24). As Bell remarks, this in itself is a decisive turn away from security measures constituted as liberatory mechanisms of governance (2006a, 160).

Critical Race Approaches

Rounding out the literatures that offer new questions and conversations on citizenship is critical race scholarship. While the literature is multifaceted, one might describe it as a body of work that is interested in analysing and transforming the relationship between race, racism and power (Delgado 2001, 2). Critical race scholarship picks up on a number of limitations of the liberal citizenship story, offering us multiple ways in which we can talk and think about race – in terms of subject formation, as ontology, as a mode of interpellation, conceptually, as a social formation, as a discourse, as a political technology or disciplinary technique. Critical race scholarship also provides an entry point to reconsider the neutrality of the liberal state, provide an entry point for biopower, challenge liberal scripts where ethnicity is naturalized and depoliticized, and expose how the state is invested in naming and defining security through multicultural governance within the context of Whiteness.

The question of race in Canadian political science is particularly interesting given that the mainstream literature is heavily weighted to a consideration of some 'identities' (i.e. regions, Québec, provinces, cultural/linguistic/ethnic groups) over others (i.e. gender-based

identifications, racialized identifications, class-based identification, indigenous nationalist/nation-based 'identities') (Nath 2011, 162). Second, this literature on citizenship and identity is notable in that while discussions of ethnicity/culture figure prominently in a number of key areas, discussions of race, racialization and racism are conspicuously absent across the board (Nath 2011, 162). As V. Seymour Wilson, then President of the Canadian Political Science Association, remarked in his 1993 presidential address, Canadian political scientists have approached the study of societal pluralism almost exclusively from the perspective of Québec nationalism, thereby neglecting the importance of "cultural and racial pluralism" (Wilson 1993, 646).¹¹

The absence of race in the mainstream Canadian citizenship story is significant given that in all stages of Canadian political development, national chauvinism, racism, colonialism, and national identity have played a central role in the definition of our political culture. Moreover, as is also the case in the United States and Great Britain, race *is* being examined more substantively in fields outside of political science; consequently, this absence in political science threatens to institutionalize a conception of race as something generated outside of politics (Solomos 1986, 314; Smith 2004, 43). To be clear, however, the absence or presence of race in Canadian Political Science is not straightforward because race *is* often signified by a number of popular stand-ins: culture, ethnicity, visible minority, immigrant, etc... (Bannerji 1996, 2000; Razack 1999; Thobani 2007). As such, there is a peculiar presence/non-presence of race in Canadian Political Science and Canadian citizenship studies that *is* particular to our script. Consequently, when we are faced with examining

¹¹ According to Wilson, two areas of Canadian Political Science that have paid attention to race are immigration and refugee policy studies, and studies of electoral behaviour. For more commentary on the absence of 'race' in Canadian Political Science, see Abu-Laban and Nieguth, 2000; Thompson 2008.

citizenship in the profoundly racialized post-September 11 context, it would be fair to suggest that the mainstream liberal literature may not offer us the analytic tools to understand exactly what is happening to citizenship.

In these ways, critical race scholarship offers us a conceptually rich way to challenge the normative liberal focus on differentiated citizenship and refocus our attention on the ways in which differentiated citizenship is an on the ground fact. For example, Arat-Koc writes that citizenship and belonging are precarious for racialized minorities as they are situated unequally and differentially in the multicultural nation and polity (2005, 41). This tenuousness of belonging creates a disciplinary pressure for racialized minorities to constantly prove their national loyalty (Arat-Koc 2005, 41). In a different vein, Ahmad (2002) challenges the liberal and Marshallian perspectives on citizenship, suggesting instead that racial hierarchies function as a “citizenship exchange market” where the relative belonging of any racialized group will fluctuate according to social and political pressures, not according to increasing provision of rights (As cited in Arat-Koc 2005, 43).

In a particularly rich and prominent challenge to the culturalism of liberal citizenship theory, Bannerji offers a decisive critique of the liberal use of the term ‘diversity’. As Bannerji explains, the discourse of diversity in Canadian political science represents society as a horizontal space, where diversity is a neutral and descriptive indicator of multiplicity (2000, 36). The language of diversity is not simply descriptive – for Bannerji, diversity is an expression of ideology marked by the simultaneity of surpassing and subsumption (2000, 36). Put differently, the paradox of diversity is that it “...simultaneously allows for an emptying out of actual social relations and suggests a concreteness of cultural description,

and through this process obscures any understanding of difference as a construction of power” (Bannerji 2000, 36).

In addition to offering the conceptual tools to theorize this dimension of identity in a robust and nuanced way, the critical race literature also challenges political time by demonstrating the ways in which ‘race’ has always been meaningful to the Canadian state and its citizenship (Dhamoon and Abu-Laban 2009; Stasiulis and Jhappan 1995), thereby offering a conceptual opening to seriously reconsider the neutrality of the liberal state. Moreover, in the Canadian context, critical race literature complements the contributions of Foucauldian analyses and securitization theory. Here, Dhamoon (2010) offers a particularly rich intervention on multicultural securitization that challenges the notion that multiculturalism and security have an oppositional relationship and argues instead that liberal multiculturalism is intrinsically constitutive of security mechanisms (256), and that security itself is a discourse of meaning-making (257). As a mechanism of security, liberal multiculturalism “...performs to *secure* hegemonic nation-building endeavors in ways that re-entrench unequal relations of power” (2010, 256), doing so through the consolidation of colonized territory; the consolidation of a national identity that is “tolerant”; the consolidation and securing of the dominance of whiteness (265), and; through the consolidation of a capitalist economy committed to the business value of multiculturalism (273). In order to disrupt the dominance of liberal multicultural conceptions of difference and security, Dhamoon calls for alternative counter-practices and discourses focused not on “...securing cultural recognition from the state, but on securing gender and disability or sexual rights, a life without violence, adequate and safe housing, equitable employment and wages, safe working conditions, mobility, access to education.” (Dhamoon 2010, 274). In

addition, Dhamoon argues that a focus on power as opposed to cultural diversity will expand the bounds of the conversation on difference open up new possibilities for the constitution of difference, and disrupt the profoundly inequitable power dynamics of state and nation-building (2010, 275).

In sum, these three literatures – governmentality, securitization and critical race - ultimately offer analyses that suggest that knowledge, power, subjectivity and citizenship are powerfully connected in ways that the liberal citizenship story ignores. To be clear, however, it is not necessarily the merging of these three literatures that is especially novel. Rather, a key point of particular interest here is that that these works introduce technologies of power hitherto neglected in liberal citizenship discourse. For example, the focus on biopower disrupts liberal stories of citizenship, identity and the state, allowing for a more contextual rendering that demonstrates how the lines between formal and substantive citizenship can only be sustained if we hold onto the liberal story. Even more critically, beyond focussing on biopower, these three literatures demonstrate the ways in which multiple modalities of power interact simultaneously, meaning that questions only focussed on the juridical dimension will neglect other critical ways in which citizenship operates. Consequently, if we accept citizenship as imbued with power and if we want to capture what is happening or has happened to citizenship, we must be attentive to juridical/legal or sovereign power, disciplinary power, and biopower, but also citizenship as a governmentality that regulates intrinsically through securitization, racialization and notions of dissidence. Moreover, we need to consider the ways in which these modalities of power operate along different dimensions of citizenship, as well as along different dimensions of race or identity. This deepens Karst's (1997) notion of the braided strands of citizenship

(formal legal status, rights, and belonging), ultimately suggesting that citizenship studies needs a way to conceptualize all of these varying intersections.

Change and Crisis

As Bryson (2007) explains, individuals have dramatically different experiences of time, but these differences are socially and cultural produced and have important political implications (9). As has been suggested already, the liberal approach to differentiated citizenship commits to an understanding of political time and change wherein the story is an evolving process of ever greater inclusion, substance and the broadening of citizenships rights (Brodie 1997, 229).

In contrast, Jenson's description of citizenship regimes has offered an important challenge to the assumptions underscoring the liberal story of ever greater inclusivity and linear progress. Jenson describes a citizenship regime as "institutional arrangements, rules and understandings that guide and shape concurrent policy decisions and expenditures of states, problem definitions by states and citizens and claims making by citizens" (Jenson 2006, 8). More specifically, citizenship regimes have three key elements that may be subject to change: formal recognition of rights and responsibilities, democratic rules for a polity, and definitions of the nation that establish the conditions for belonging (Jenson 2006, 8-9). Jenson departs more clearly from the liberal story by sustaining an analytic commitment to consider regime changes in such a way that citizenship regimes are read as contextual or as particular temporal and spatial concretizations. At the same time, Jenson is clear that citizenship regimes are located in or forged out of the political circumstances of a given national state (1996, 113). In this sense, not only do regimes not alter easily or quickly, but regimes do not move in any one particular direction.

For Jenson, stable regimes are ones in which the representation of citizens by the state accommodates or meshes with the citizens' representations of themselves (1996, 113). While this notion of stability raises some obvious questions¹², change of stable regimes, wherein the role of the state and the boundaries of public, private and market are "reopened for discussion", is more likely to happen at moments of political and economic turbulence (Jenson 1996, 113). Consequently, it is when a model of development enters into crisis that the citizenship regime embedded within it also does (Jenson 1996, 113). This more explicit political economy focus can also be found in Brodie's (2002) work, as she describes and demonstrates the ways in which key transitions in the Canadian political economy from a laissez-faire state, to the Keynesian Welfare state, to the neoliberal state are not only intimately linked with citizenship on all three of the dimensions that Jenson describes, but that these transitions have consequences for citizenship that are profoundly gendered (378).

Adopting a less explicitly materialist perspective, Dobrowolsky argues that in the post-September 11 context, two pivotal trends have surfaced in heightened incarnations: marketization and securitization (2008, 466). These trends, which are at times highly contradictory in their impact, have led to a situation where some women are hypervisible (Arab and/or Muslim women, as well as those perceived to be Arab and/or Muslim), at the same time that women are also invisibilized and instrumentalized by the Canadian state (Dobrowolsky 2008, 466). Here, the regime is connected to a neoliberal political economy, but the relationship is not causal. Rather there are correlations between the neoliberal

¹² What does stability mean? What does stability mean, and for whom? Who is able to disrupt the stability of a regime? How does power operate in such a way to shape citizens' expectations?

political economy and a social formation based on securitization or risk management that operate on and through the citizenship regime.

While there are certainly limitations or gaps in Jenson's approach, conceptualizing citizenship as a regime does open up a different layer of inquiry that does not seem to be available in the liberal model. For example, the regime approach leads us down a path where we need to consider questions of causality or correlation, as well as a series of questions on crisis identification, including how we determine the length of a crisis, how we know when a crisis is resolved, how we know when a citizenship regime is stable, how stability is contingent on subjectivity, and whether all dimensions of a citizenship regime change during a given crisis. While Jenson's approach may not answer all of these questions, it is meaningful that it leads us to ask them. These questions are particularly important given the sharpening and hardening of citizenship boundaries during periods of perceived external challenge referred to earlier by Macklin.

1.2.4 Conclusions

The overarching point that emerges clearly from this review of the citizenship literature is that the mainstream liberal approach to citizenship in Canada is conceptually, theoretically and analytically partial. Liberal theories of differentiated citizenship do not have a multidimensional approach needed to capture and account for the shifting sites and scales of citizenship discourses and practices. This in turn compromises the capacity of these theories to account for the citizenship trajectories of marginalized, non-normative and/or dissident citizens and non-citizens. The Marshallian focus on rights and passive entitlements that seems to ground the study of citizenship is unduly narrow, and the dominant narrative on universality/particularity and belonging in Canadian citizenship studies is contained

within the bounds of a profoundly liberal conversation. Together, governmentality, critical race and securitization scholarship disrupt the liberal narrative on citizenship, denaturalize assumptions about the liberal state, and hence hold the possibility to disrupt liberal temporalities. Moreover, in challenging us to rethink the relationship between formal and substantive citizenship, these literatures challenge the presumed universality of liberal citizenship theory by highlighting differential access, differential regulation and ultimately suggesting that inequity might in fact be intrinsic to how liberal citizenship functions. In this sense, a reconsideration of the trajectory of change in the citizenship story requires that we revisit the question, 'Who is the citizen?' and 'Change for whom?' All of these dimensions ultimately suggest that our assessments of change are directly linked to how we characterize citizenship itself. If this then is the case, it is worth questioning whose citizenship trajectory 9/11 actually interrupted.

1.3 THEORETICAL FRAMEWORK

1.3.1 Challenging the Dominance of Liberalism

First, as has already been demonstrated, in the case of Canadian political science, the liberal theorists of differentiated citizenship have clearly dominated the conversation. In doing so, not only have critical perspectives been marginalized, but the increasingly inclusive and linear citizenship story told by liberal theorists betrays the lived experiences of racialized groups of citizens. As opposed to recognizing belonging as part of a strategy of governance, the field has been skewed towards a focus on passive belonging, a perceived unidimensional link between belonging and rights, and often esoteric 'feelings' of belonging. This conversation has also been framed with the assumption that the fullest expression of

citizenship requires a liberal democratic state, an assumption accompanied by a characterization of the liberal state as neutral, essentially or relatively benign.

Consequently, a critical aim of this dissertation is to disrupt the dominance of the liberal citizenship story, by: a) challenging the idea of the neutral liberal state; b) challenging liberal temporalities by unsettling and complicating the idea that there was a citizenship consensus that was interrupted by the events of September 11 2001, and; c) establishing sufficient critical distance in order to ask the fundamental question that liberal theory presumes to know the answer to: 'Who is the citizen?'. This latter point about critical distance is particularly important given the analytic consequences of the depoliticizing movements of liberalism. For example, when an institution is taken as neutral or benign (i.e. the state, citizenship), it becomes just another variable that can be controlled for, hence ignored.

Citizenship as governmentality

While this dissertation is by no means strictly a governmentality study, Foucault's reflections on power, knowledge, and governmentality will be particularly useful in crafting a more contextual citizenship story. Governmentality, a neologism of government and rationality, involves the 'conduct of conduct' or the rational application of techniques designed to regulate people and their actions (Kernerman 2000, 89-90; Murray 2007, 162). These techniques do not reside in any one particular institution, person or group – rather, these techniques are the result of a multitude of thoughts and practices that inform assumptions about the nature of government, how it should be exercised, by whom and for what purpose (Murray 2007, 162; Dean 1999, 26).

Murray explains that the images of a centralized state that permeate liberal forms of government emerged from sovereign modes of rule (2007, 163). As already described, this centralized state is characterized as benign, uninterested and relatively passive. Rather than simply 'bringing the state back in', this dissertation draws on Foucauldian reflections to focus less on the institution, and more on strategies of governance in order to paint a more full picture of how power circulates in and through citizenship, and where and how citizenship itself is produced. In this sense, the study challenges the formal institutionalism of Canadian political science by engaging in an analysis of the state as *one* historically specific domain of power, rather than *the* locus of power (Murray 2007, 163).

This similarly holds for a governmentality approach to citizenship that interprets citizenship less as an institution and more as "strategies governing processes of social change by transforming citizens' attributes, expectations and practices" (Procacci, 2004). Procacci's (2004) work on citizenship and governmentality is instructive here. As opposed to thinking of citizenship as an institution, Procacci focuses on the ways in which citizenship organizes exclusion, inclusion and international exclusions. In this sense, in adopting a governmentality approach to citizenship, Procacci resists approaches which characterize citizenship as "legitimate institutions embodying sovereignty" and instead turns her attention to the ways in which political power operates through citizenship. There is nothing 'natural' about citizenship. Procacci insists that 'The Citizen' is fictional in that the historical persona of the citizen corresponds to different regimes of citizenship.

In this sense, a governmentality approach offers a perspective on political time and change that challenges the conventional liberal narrative where the institution of citizenship is stable and acted upon as opposed to acted through (Procacci, 2004). As a governmental

strategy and form of regulation, citizenship visualizes who or what is to be governed, what problems need to be solved, through which mechanisms authority and rule be secured, the kinds of identities the state can conceptually govern, and the forms of expertise or knowledge that can be harnessed in governing (Dean, 1999). Here, focussing on citizenship as practice and a form of regulation, as opposed to focussing on citizenship as status, injects 'activity' into the field and confronts any tendency to treat citizenship and citizens as neutral variables that can be 'controlled' for the purpose of analysis.¹³

In adopting a more diffusely political and politically diffuse approach to government and citizenship, I am also keenly aware of the cautions issued by scholars such as Brodie. Brodie (1997) is tentative about this intellectual shift from institution to text, and suggests that in describing the contemporary liberal state as a "multifaceted ensemble of power relations, an unbounded terrain of powers and techniques, an ensemble of discourses, rules, and practices, erratic and disconnected, and as a series of arenas", it becomes difficult to conceptualize what we mean by citizenship claims on the state (226-227). This is particularly relevant beyond the level of theory given that the rights and protections afforded by having citizenship status are certainly critical to many marginalized and vulnerable groups of individuals. For Brodie, the analytic use of meso-narratives offers a means to navigate between the meta-narratives of modernity and the micro-technologies of power in everyday life (1997, 227). This dissertation is primarily focussed on discourses and texts at the meso-level, but will draw on the contributions of Agamben and Goldberg to situate and ground the more fluid conception of the state, citizenship and governance in both historical processes and particular racialized discourses of power.

¹³ Dhamoon (2006) makes a similar argument around shifting our language from culture to cultural practices.

The State of Exception

In combination with Foucauldian inspired governmentality analyses, as well as key critical race interventions, Agamben's (2005) notion of governing through exception affords some analytic possibilities that challenge the description of citizenship trajectories in mainstream Canadian citizenship studies. Agamben describes how the discourse of exception and the related strategy of 'necessity' are part of a long pattern of governance where provisional measures deployed¹⁴ in moments of emergency are actually transformed into an ongoing technique and norm of governance (Abu-Laban and Nath, 2007, 79). IN this sense, Agamben challenges the dominant consensus that 9/11 was an exceptional moment authorizing exceptional state measures via the 'War on Terror'. In a state of exception, the bare force of sovereign power "...renders aspects of the law inapplicable in response to perceived necessities brought about by a state of crisis" (Larsen and Piché 2007, 16). On the ground, this means that sovereign or executive prerogatives ultimately displace due process and other more democratic procedures (Larsen and Piché 2007, 16).

Exceptionality is not a zone where law is absent. Rather, the law is deeply present in a state of exception, but only as a legitimization of sovereign power (Larsen and Piché 2007, 16). Moreover, individuals are subject to the law and can be detained under a legal regime, but they are not subjects *in* the law hence they are not afforded rights within that regime (Larsen and Piché 2007, 209 -- citing Salter 2006). Ericson (2007) for example, describes states of exception through the concept of counter-law, where spaces of exception "...involve the use of laws against law" (Richard Ericson as cited in Larsen and Piché 2007, 1). In order to pre-empt "imagined sources of harm", counter-law puts new laws in place and existing

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laws are subject to new uses, both of which corrode traditional procedures, standards or laws (Ericson 2007, as cited in Larsen and Piché 2007, 16). In this sense, counter-law, or the way in which states of exception are governed, are not simply about the exercise of sovereign power. (Larsen and Piché 2007, 16). Rather, this form of governance is situated within the logic of neoliberal risk management, where the focus is on precaution as opposed to prosecution (Larsen and Piché 2007, 16).

Agamben's work on the exception has been described as overly abstract and totalizing (Aitken 2008, 382), with at least two points of caution raised here. First, Agamben's analysis submerges the reality that not all individuals are regulated in the same way in a state of exception. Second, where the concept of counter-law enables us to understand the way in which states of exception are in fact replete with administrative or legal power, the corrosive impact of counter-law on traditional procedures, standards or laws, for example criminal law, should not be taken to insulate or idealize these norms of law in terms of their impact on marginalized communities or varying types of dissident citizens.

Consequently, working with analyses that account for the differential situatedness and regulation of subjects, Agamben's conceptualization do afford some analytic possibilities in the context of this dissertation. First, Agamben introduces a level of historicity that compels analysts to consider the ways in which 20th century Canadian policy has continually manufactured racialized zones of exception from the normal juridical order (Aitken 2008, 386; Dhamoon and Abu-Laban 2009). Consequently, in assessing changes in citizenship practices after September 11, 2001, Agamben's intervention rightfully suggests that we sustain some analytic commitment to locating and identifying continuities. Second, Agamben's notion of *homer sacer* has profound consequences for how we understand

citizenship, particularly when citizens racialized as non-white are systematically moved from a political zone to a security zone, or put differently, when Arab and/or Muslim citizens (as well as those perceived to be Arab and/or Muslim) are delinked from their political and legal subjectivity.

The Racial State

Agamben's lack of analysis of subjectivity in the context of the exception is a significant erasure. As governmentality literature demonstrates, citizenship cannot be separated from the practices of government that organize it, nor from the forms of subjectivity corresponding to them. Consequently, technologies of the self (the constitution of the subject) and technologies of domination (the formation of the state) co-determine one another (Dean 1999, 24). Given this, in addition to speaking of processes of racialization in order to understand how particular political rationalities are constructed as objective knowledge, this dissertation draws specifically on Goldberg's work on the racial state as one way to address Brodie's concern about the theoretical move towards text, as well as a way to provide for some roots in terms of thinking about the constitution of the subject, and for broadening out the conversation on the exception and notions of exceptionality in that analysis of subjectivity. Goldberg's racial state provides a compelling way to provide substance and context to strategies, programmes and techniques of governance with respect to Canadian multicultural citizenship, and citizenship more broadly.

Where one can suggest that the field of political science has been notably silent on race and the attendant processes of racialization, Goldberg (2002) suggests that a particularly telling evasion in the past two decades of thinking and writing about race has been an almost complete theoretical silence on the state (2). Goldberg's project is not only

to demonstrate how the state is implicated in conditions of racist exclusion, but also to show how the modern state has always conceived of itself as racially configured (2002, 2). The racial state does not describe¹⁵ a condition of being – rather, the racial state describes a state of *governance* (Goldberg 2002, 98). In this sense, a state is not simply racial because it reproduces certain local conditions of *racist* exclusion, because of the ‘racial’ composition of its personnel, or because of the racialized implications of its policies (Goldberg 2002, 2). Instead, race is integral to the conceptual and institutional emergence, development and transformation of the modern state – the *modern* state is inherently racial (Goldberg 2002, 4).

Supporting a more regime oriented approach to citizenship, Goldberg, suggests that the terms of the racial expression of a racial state will be specific to the particular state apparatuses and technologies which drive its modes of regulation (Goldberg 2002, 4). Moreover, as a product of *modernity*, the racial state trades not only on race, but also on gender, capital, colonialism and imperialism (Goldberg 2002, 7). Consequently, the content or meaning of racialized subjectivities will vary across and within racial states. The process of subject formation, however, remains broadly the same. Racial states constitute their subjects not simply by ‘knowing’ them, but more specifically by creating their ‘truth conditions’ (Goldberg 2002, 34). This is not done simply and boldly through state instrumentality. Instead, the racial state cultivates a racialized subject that is “self-fashioned and promoted” through implicit modes of discipline and surveillance, as well as the diffuse production of consent (Goldberg 2002, 106).

¹⁵ 2002, 98

Goldberg's racial state provides for an interesting conceptual opening to deepen Foucault's commentary on the tension that lies at the core of liberal government: the government must govern, *in part*, through freedom. In the context of the Canadian citizenship story, this analysis is particularly useful when we consider the paradoxical relationship between universality and particularity that is expressed through liberal multicultural governance. If states operate on a homogenizing imperative, liberal multicultural states like Canada, that attempt to foster structures of heterogeneity are marked, to some degree, by a set of contradictory aims. In this sense, the language of 'managing diversity', 'ordering difference' or 'determining the limits of multiculturalism' signifies this fine balance between homo- and heterogeneity (Goldberg 2002, 30). Moreover, positioned within the context of these contradictory aims, the depoliticization of race through the discourse of pluralism makes sense in a state that is attempting to contain particular types of heterogeneity (Goldberg 2002, 30).

As referred to in the above review of citizenship literature, Kernerman's contributions on multicultural panopticism and governance are particularly useful in disrupting the neutrality of the liberal state, and instead exposing multicultural governance as a distinctively liberal strategy of diversity governance (Kernerman 2005, 99). Because liberalism must take the freedom of the subject seriously, multicultural governance (coveillance) does not operate to suppress diversity, but facilitates "the playing out of diversity along certain less threatening paths" (Kernerman 2005, 101). In this sense, diversity is not intended to thrive freely - it is taught how to (Kernerman 2000, 92). It is at this point that citizenship discourses and citizenship practices become not only extremely meaningful, but deeply political and embedded in a long political history.

Managing Complexity: Multidimensional Concepts and Intersectional Analysis

The theoretical framework of this dissertation is also intended to support a more fully multidimensional analysis of citizenship, identity and power. The impetus here is analytic, largely coming from feminist interventions on intersectionality, as well as from Brubaker and Cooper's important intervention on identity. On this front, there are essentially two dimensions this dissertation will explore and develop: 1) conceptions of multidimensionality, and; 2) intersectional frameworks that can manage the ensuing analytic complexity.

First, Brubaker and Cooper (2000) suggest that, "...the term 'identity' is made to do a great deal of work" (8). It has been understood as a basis of political action; a collective phenomenon denoting sameness among members of a social category; a core aspect of individual/collective selfhood; a product of social or political action, and; a product of multiple and competing discourses (Brubaker and Cooper 2000, 68). These different dimensions of identity are interrelated yet arguably distinct; consequently, there is a conceptual and analytic danger when they are collapsed upon each other. The suggestion here is that the same can be said of the analysis of citizenship, race and power.

For example, we might understand citizenship as a formal status, a package of rights, a discursive regime, or a political technology or technology of subjectivity. Similarly, Yuval-Davis (2006) explains that social divisions of race, class and gender are multidimensional, with organizational, intersubjective experiential and representational forms. To this we might add Sheth's (2009) description of race as a technology of subjectivity, or Stoler's (2002) assertion that racial discourses are analytic grids of intelligibility. And, on the power front, Erickson and Haggerty describe how biopower, disciplinary power and sovereign

power are all part of state and non-state institutions and forms of governance (1997, 91). While these forms of power are, to some degree distinct, Bell captures their interconnectedness as she describes how biopower characterizes liberal practices of government, as it penetrates and operates alongside sovereign power, while simultaneously giving rise to governance practices that discipline individuals through institutions and regulate the population as a whole (2006, 151).

The point then is not to reject this multidimensionality in the quest for analytic clarity, but to find a framework through which to manage and explore this complexity. Here recent feminist theorizing on how to mentally map intersections are useful in the context of this dissertation. A common concern in the intersectionality literature is how many social divisions are involved and/or which ones should be incorporated into the analysis. Consequently, unpacking the analytic layers of citizenship, identity, race and power is a primary theoretical step in this dissertation.

Feminist intersectionality theorizing offers a myriad of useful frameworks that can be used to manage analytic complexity. For example, McCall suggests that the study of multiple, intersecting and complex social relations can be approached in three different ways, each of which manages categorical complexity in a particular manner: 1) anticategorical complexity; 2) intracategorical complexity¹⁶; 3) intercategory complexity (2006, 1773). While the anticategorical approach has been the most successful in *conceptualizing* intersections through a methodology that deconstructs analytic categories, McCall asserts that case study approaches, which are compatible with the intra categorical

¹⁶ Here, theorists are focused on “...particular social groups at neglected points of intersection” (McCall 2006, 1774).

complexity approach, represent the most effective way of empirically researching the meanings of social categories in light of their intersections (2006, 1782). Case studies are an effective way of managing intersections because one can start with an individual, group, event, or context, then work outward to unravel how categories are lived and experienced (McCall 2006, 1782). As McCall asserts, this approach considers what identities are being 'done', by whom, and when (2006, 1782). This approach also enables one to consider when and how some categories might "unsettle, undo or cancel out" other categories as they intersect (McCall 2006, 1782). However, if the interest is in understanding the relations between categories, McCall advocates the intercategory approach. Here categorical complexity is managed in a somewhat reductionist process where the analysis focuses on one or two between-group relationships at a time (McCall 2006, 1787). These permutations of these intersections are charted in order to generate a synthetic and holistic picture when the pieces are put together (McCall 2006, 1787).

Alternatively, others like Yuval-Davis suggest that complexity can be managed by carefully separating and examining the different levels (institutional, intersubjective, representational, experiential) in which social divisions operate (2006, 200). McWhorter's analysis adds another important dimension to Yuval-Davis' levels. She calls for a genealogical approach to examine how and in what contexts concepts (and the phenomena they organize) arise (2004, 39). Here, McWhorter examines the ways in which the modern concept of 'race' and its associated institutions and practices arose within the same networks of disciplinary normalization and biopower as the modern concept of sex; the intersection here is a common genealogy (2004, 47-48).

This dissertation explores multidimensionality by using intersectionality frameworks in order to generate a more holistic analysis, but also to generate a more diffuse understanding of where citizenship comes from, or where and how citizenship is produced and practiced. Put differently, given that the point of this research is to generate some degree of understanding as to what has happened to citizenship for those racialized as non-white in Canada after September 11 2001, how we answer the question will change depending on whether we adopt a liberal approach that equates citizenship with rights and belonging, or if we pursue a more multidimensional understanding. Second, by adopting intersectional frameworks that enable us to better manage complexity, this work will confront the conceptual and analytic separation of formal/legal citizenship from substantive citizenship, perhaps exposing what may be a less useful distinction in the literature.

Breaking down research silos

Finally, the theoretical framework adopted here identifies and fills in three fundamental gaps in the literature on citizenship. First, while mainstream scholars have quite clearly considered liberal multiculturalism as a policy and normative ideal, the literature is notable for its striking silence on race and racialization. While notable, this analytic silence is not surprising given the larger disciplinary erasure of race. Goldberg's work gives substance to the governmentality literature and offers a theoretically advanced way of conceptualizing race and racialization in the context of citizenship practices. Moreover, Goldberg's work provides room to consider racialized discourses of threat and security, a contribution that is particularly relevant in an analysis of the post-September 11 context. For Goldberg, the 'racial threat' provides a means to account for the threatening unmanageability or unruliness of the unknown (2002, 34). Knowing the threat is just one

part of controlling it – power in the racial state is actually exercised more productively by creating truth conditions that turn the heterogeneous into a manageable homogeneity (Goldberg 2002, 34).

Second, as described earlier, while civil liberties and in/security are critical to understanding citizenship, both have tended to be studied substantively only *outside* the citizenship literature. At present, the citizenship conversation tends to focus on stability and crisis in connection with the supposed strain caused by diversity. While the implications are clear, there is very little inquiry as to who is threatened by this diversity. This dissertation draws both on Goldberg’s analysis, but also on the securitization approach to reintroduce the language of in/security into citizenship studies, to broaden conceptions of in/security in the context of citizenship studies, to reconsider whose in/security is at stake, to denaturalize security as an essential liberal social contract value, and repoliticize it as a diffuse technology of governance. As Aitken aptly writes, “One of the most complicated challenges to citizenship studies in our present is the need to make sense of the diverse threats which relate ‘citizen’ and ‘security’ and which, in turn, often govern racialized ‘others’ as exceptions to citizenship in the name of security” (2008, 383). Moreover, by broadening the scope of the citizenship conversation to account not only for passive belonging, but governmental belonging as well, this analysis will consider how different strategies of belonging affect who is able to dissent, or even more broadly, the kinds of activity a citizenry is ‘supposed to’ be engaged in.

1.4 RESEARCH METHODOLOGY

1.4.1 Analytics of government

This study adopts not only a discursive understanding of citizenship, but also an understanding of citizenship as a governmentality or practice, as well as a technology of

subjectivity. While this project is by no means a strict governmentality study, nor a strict Critical Discourse Analysis (CDA), the focus on text is informed by both approaches. In the case of the former, Mitchell's (1999) description of the analytics of government is useful in providing a broad overview of how the study area will be approached in this dissertation and how citizenship itself will be treated and analyzed as a regulatory strategy. Mitchell identifies the starting point for an analytics of government as the identification and examination of a problematization. This refers to a relatively rare and specific situation in which the activity of governing – how we shape or direct our own and other's conduct - is called into question (Mitchell 1999, 27; Milchman and Rosenberg 2005, 347). Put differently, a problematization refers to a particular moment and space wherein we ask fundamental questions about how governors and the governed conduct themselves (Mitchell 1999, 27). This approach informs not only the choice to focus on the events of September 11, 2001, but also the choice to focus on the three main study areas of civil liberties, security and multiculturalism.

In addition to focussing on 'how' questions, an analytics of government approaches practices of government as heterogeneous, historical and polymorphous (Dean 1999, 29-30). However, the approach can also be described as materialist in that it places regimes of practice, in this case citizenship, at the centre of the analysis in order to discover the logic of such practices (Dean 1999, 29-30). Dean's (1999) description of a series of four relatively autonomous but reciprocally conditioning questions informs the broad frame applied to each of the study areas and it informs how citizenship itself is treated as a regulatory strategy. First, how do we visualize who and what is to be governed, how relations of authority and obedience are constituted, what problems are to be solved, and what

objectives are sought (Dean 1999, 30)? Second, through what “means, mechanisms, procedures, instruments, tactics, techniques and vocabularies” are authority and rule secured and accomplished (Dean 1999, 31)? Third, what forms of “knowledge, expertise, strategies, means of calculation, or rationality” are harnessed in governing practices (Dean 1999, 31)? Finally, what are the forms of identity, or the processes of identification, through which governing operates (Dean 1999, 32)? Related, what forms of identity are presupposed by the practices and strategies of government, and what sorts of transformations do those practices seek to enact (Dean 1999, 32)? And, what “statuses, capacities, attributes and orientation” are affixed to those who govern and those who are governed (Dean 1999, 32)?

1.4.2 Case Studies – Selection and Timeline

This dissertation focuses on three main cases studies that can be loosely described as dealing with multiculturalism, civil liberties, and security. As has been addressed, but for scholarship on immigration and refugees, mainstream Canadian citizenship studies has not paid substantive attention to security and civil liberties, thereby elevating the importance of integrating an analysis of these three dimensions to fill an important disciplinary gap. However, the choice to focus on these three areas has also been arrived at more organically in that issues of multiculturalism, security and civil liberties were all subject to extensive and heightened academic and popular commentary and concern in the post-September 11 context. Drawing on the discussion above, we might loosely refer to these issue areas or sites as problematizations wherein the assumptions around governing within each of these three areas were subject to intense contestation.

More tangibly, in choosing these case studies, decisions had to be made regarding timeline, as well as how to identify an appropriate pre- and post- comparator case. One possible approach was to track citizenship in two particular moments of crisis, as well as in the years following that crisis. The strength of this approach is that it is the clearest way to understand citizenship practices in times of crisis. This approach, however, was rejected given complications in identifying comparable moments of crisis to the events of September 11. Another possible approach was to track citizenship along a certain time period (i.e. 10 years, 20 years) that covered a number of years before and after the events of September 11 2001. This approach was rejected given that the relatively arbitrary nature of determining the number of years to be covered would not be suitable to the details of each case. Instead, the approach taken to case study selection has focussed on finding consistency in the case itself, and then identifying the appropriate time period to be covered. In this sense, the point of this study is *not* to empirically compare citizenship practices in two moments of crisis, but rather to sketch out a discursive picture of how citizenship practices remained the same or shifted after the events of September 11. In terms of specifying the case studies, there were two major steps to this process: 1) identifying a pressing citizenship conversation in the post-September 11 context, and; 2) doing some preliminary tracking of the lineage of this conversation to identify a similar moment in the pre-September 11 context to take as a starting point.

Case Study 1: Inter/multiculturalism: Reasonable Accommodation and the Regulation of Muslim Women

At the start of 2007, inside and outside of the province of Québec, Muslim women became the central subjects in a gendered and racialized discourse regarding the extent to

which ethnocultural minorities could and should be accommodated. During this period, the media covered a series of racialized (and racist) and gendered (and sexist) controversies pertaining to reasonable accommodation, with the concern being that the demands of ethnocultural minority groups were placing a strain on the system. Amongst other issues, the ensuing debates would focus on the public presence, participation and integration of Muslim women, specifically those women wearing hijabs, niqabs or burqas.

In this post-9/11 moment, Muslim women as a citizenship problem ‘to be solved’ would be read largely through the lens of reasonable accommodation, a lens that would function to recast a host of citizenship discourses or diversity management strategies that we are familiar with, including tolerance, multiculturalism and interculturalism. Here, reasonable accommodation would depart from its more constrained legal application, become a sliding signifier, emerge as a powerful diversity management strategy, and would itself become an important marker of time suggesting that ‘concern’ over Muslim women wearing the hijab, burqa or niqab began and ended with the ‘reasonable accommodation crisis’ and the government established commission to study said crisis.¹⁷ During this period, ethnocultural minorities, specifically Muslims, were characterized as a ‘risk’ to be managed. In particular, all Muslim women emerged as a clear and pointed site of citizenship anxiety and cultivation and their citizenship status was coterminous with neither substantive belonging nor formal belonging.¹⁸

¹⁷ In 2007, Quebec Premier Jean Charest established the Consultation Commission on Accommodation Practices Related to Cultural Differences, later known simply as the Bouchard-Taylor Commission. The commission would be headed by prominent academics Charles Taylor and Gerard Bouchard. The final report of the commission, “Building the Future: A Time for Reconciliation”, was released in May 2008.

¹⁸ The tenuousness of formal citizenship guarantees resonates particularly strong given the passing of Bill 94 (An Act to establish guidelines governing accommodation requests within the Administration and certain institutions) in Quebec. The bill which mandates that if Quebecers wish to obtain or deliver public provincial

Given that mainstream Canadian citizenship scholarship has been ill-equipped to describe the citizenship experiences of those characterized as departing from the citizenship norm, how best can we capture and describe the changes to the *governance* of Canadian Muslim women? By treating citizenship as a governmental strategy that regulates through race, security and notions of dissent, how does our sense of time and transition change in meaningful ways? To consider these questions, this case study looks at the long-standing anxiety over the religious practices and public presence of Muslim women in Canada by examining media reports in the *Montreal Gazette* over a 25 year period (January 1, 1985-January 1, 2010).

As my analysis of the evidence shows, as far back as the early 1990s, another series of extensive debates occurred in the province of Québec, focusing specifically on Muslim women, their integration, and their choice to wear some type of Islamic veil or headscarf. Moreover, with controversies arising again in the contemporary period, for example with the tabling and subsequent passing of Bill 94 in Québec, the importance of imagining an alternate rendering of the trajectory of this particular site of citizenship regulation is palpable.

Case Study 2: Civil Liberties: Academic Freedom, Dissent and Palestine Solidarity Activism on University Campuses

The post-September 11 period seems to be marked by a particularly hostile climate to Palestine solidarity activism with universities themselves becoming a key site of and mechanism for the regulation of this group of dissident citizens. In this post-September 11

services, their faces must be uncovered, effectively bars Muslim women from receiving or delivering public services while wearing a niqab.

period, all levels of government in Canada (federal, provincial and municipal), various international bodies, international organizations and states, university administrations, non-governmental lobby groups, the media, academics themselves and students have all participated in a well-coordinated, vigorous and targeted 'schooling' of Palestine solidarity activists. The tools for the delivery of these lessons have been diverse, including shaming campaigns in the media, targeted application of student codes of conduct, the regulation of campus space, the regulation of student groups, allegations of anti-Semitism, manipulation and distortion of human rights discourse and anti-racism initiatives, peace and dialogue initiatives, student exchanges to Israel, the strengthening of institutional ties through scholarships and academic programs, and the coordination of spying in classrooms. And, the discursive terrain on which these lessons have played out has been academic freedom, anti-racism, the grounds of morality, as well as the terrain of liberal humanitarian values.

While the attacks on academic freedom, debate and critique as well as the disproportionate interest in, and monitoring and obstruction of the activities of Palestine solidarity activists seem exceptional, the lineage of the pushback against Palestine solidarity activism on Canadian campuses can be traced back well into the pre-'9/11' period. As just one example, in 2008, the University of Western Ontario's Public Interest Research Group (PIRG) was deratified as an official student club by the Clubs Policy Committee of the University Student Council (Corrigan 2008). The official deratification notice gave no specific grounds or reasons for the action, yet, as Corrigan notes, this PIRG had officially sponsored a number of Palestine solidarity speakers on campus since the Solidarity for Palestinian Human Rights (SPHR) was deratified as a student group at Western in 2006 (2008). Notably, there have been at least four complaints mounted against the University of

Western Ontario and that university's Students Council. These complaints have wound their way to the Ontario Human Rights Commission and have been filed on the basis of anti-Palestinian and anti-Arab racism (Corrigan 2008).

This extends far beyond 9/11. As early as 1982, a student group at the University of Western Ontario was refused official recognition because of its support for Palestinians, and because it sponsored Palestinian and Arab speakers (Corrigan 1987, 87). This was one of the four cases that made its way to the Ontario Human Rights Commission. Along with the support of the Canadian Civil Liberties Association, as well as a supportive editorial in the *Globe and Mail*, the Ontario Human Rights Commission ruled in 1994 and compelled the University Students council to issue an open apology and to ratify this student group (Corrigan 2008).

This case study examines the regulation of Palestine solidarity activists as dissident citizens on one Canadian university campus, York University in Toronto, Ontario between 1980 and 2010. My analysis in this case study probed whether expectations around particular citizens' academic freedom and the right to dissent changed in the aftermath of September 11, but more specifically how this group of dissident citizens were regulated through notions of the exception, through securitization and through notions of dissidence.

Case Study 3: Security - Security certificates

In the profoundly racialized and Islamophobic post-September 11 context, the detention in Canada's 'Guantanamo North' of five men dubbed Canada's Secret Trial Five (Mohammed Mahjoub, Mahmoud Jaballah, Hassan Almrei, Mohamed Harkat, Adil Charkoui) stood as a particularly stark commentary on the absolute tenuousness of non-citizen status for Arab and Muslim men entangled in the Canadian citizenship regime. As Aitken

powerfully asserts, the security certificate program “...narrates what is, perhaps, the most disturbing tension which haunts citizenship and citizenship studies in our present; the often racialized lines of force which separate bodies governed as political citizens from those governed in terms of ‘bare life’” (2008 382). Particularly thanks to the efforts of activists who publicized the cases of the Secret Trial Five, it is only after September 11, 2001 that security certificates emerged as controversial in the public consciousness.

Often described as secret trials, the security certificate regime has fallen under the provisions of the *Immigration and Refugee Protection Act* (IRPA) since 2002. In brief, security certificates are a mechanism that allows for non-citizens (permanent residents, refugees or foreign nationals), who are believed to pose a threat to Canada, to be held, arrested, detained indefinitely, and/or deported on the politically ambiguous grounds of national security. Under security certificates, non-citizens can be detained, often for extended periods of time, particularly when deportation cannot easily be accomplished (Duffy and Provisi 2009, 532). Security certificates depart significantly from the standards and procedures which govern criminal cases or even conventional immigration proceedings (Duffy and Provisi 2009, 532). They are by definition exceptional; as defined by Public Safety Canada they are to be used only in “exceptional circumstances” (Public Safety Canada). Certificates can be issued based on evidence the named non-citizen is not allowed to see, and there is extremely limited scope for the judicial review of the named person’s detention (Duffy and Provisi 2009, 532).

As my analysis in this case demonstrates, despite their elevated profile post-September 11, security certificates have existed in one form or another since 1978, although they were first used in Canada in 1991. As Macklin (2009) notes, the security certificate

process has evolved, with each iteration becoming more secretive, oppressive and restrictive than the last (3). In addition, what *has* shifted is that those detained on certificates after September 11, 2001, have been subject to detention or house arrest for much longer than was custom prior to '9/11', making security certificates function to facilitate indefinite detention as opposed to speeding up deportation (Wilke and Willis 2008, 30). Nonetheless, the security certificate process is not entirely without precedent given the *War Measures Act* and the state's historical record of criminalizing 'foreigners' (Aiken 2000, 60). In this sense, it is far from anomalous or exceptional that in a settler colonial state, laws governing immigration have distinguished preferentially between "desirable" and "undesirable" immigrants (Aiken 2000, 60).

In this way, this case study examines how security certificates are not simply products of the post-September 11 legislative window and, at a minimum, can be traced back to the 1990s when immigration and citizenship occupied a top spot on the political agenda (Dobrowolsky 2007, 632), there was a heightened preoccupation with "illegal" migration from the Global South (Aiken 2000, 63), forms of appeal previously available to non-citizens were being eliminated (Crépeau and Jimenez 2004, 610), and restrictive amendments to the *Immigration Act* 1976 created terrorist as a new category of security inadmissibility and mandated a greater role for the Canadian Intelligence Security Service (CSIS). While after September 11, 2001, the association of terrorism and migration intensified, quite early on, the state was willing to target non-citizens by using immigration legislation as opposed to criminal law (Davies 2006, 381; People's Commission 2007, 16). Consequently, while security certificates meshed well with many aspects of post-'9/11' discourses, the animus for security certificates is positioned far earlier (Dobrowolsky 2007, 633).

Put differently, there is a strong historical lineage to current deportation and detention practices which are characterized as protecting the security of Canada. These practices are less about protecting democracy or preventing genuine threats to the state, and more so another tool in an “increasingly sophisticated arsenal, to contain and manage refugee admissions” (Aiken 2000, 55). With this historical shift, non-citizen, especially particular refugee or non-citizen communities, lose any entitlement to the albeit imperfect protections, procedural or otherwise, normally granted through criminal law (Davies, 2006, 381). All the while, these non-citizens are subject to higher levels of security scrutiny (Aiken 2000, 55). In this sense, non-citizens, and refugees in particular have been increasingly cast as threats as opposed to rights-bearing subjects even prior to the September 11, 2001 terrorist attacks (Larsen 2008, 26).

1.4.3 Methods and Sources

As the focus of this dissertation is textual, the research questions identified in this project involved a close textual reading of texts using a discourse analysis. The caveat here being an approach or orientation that is similar to that adopted by Kernerman. Kernerman writes that, “...the adoption of a methodology usually implies that there is a given question or set of questions that, once the methodology is applied, yield a given range of possible answers” (2000, 32). Following Derrida, Kernerman cautions that in this approach, the chosen methodology can overwhelm the study, often to the point that the methodology and not the text produces the questions and problems to be studied (Kernerman 2000, 32). For Kernerman, one approach to confronting this tendency is to develop a study that is problem-centred. Here, rather than a specific method, Kernerman employs a series of different, yet complementary, theoretical lenses to generate insights into the problematic (Kernerman

2000, 33). While this project is not problem-centred, Kernerman's comments are valuable in that while each text has been approached with an initial list of guiding questions or orientations, the approach taken here was necessarily flexible in design in order to allow the texts themselves to identify trends and themes that could not necessarily be anticipated.

Why Discourse Analysis?

As Brodie explains, the interrogation of language is a critical component of citizenship studies because "historically invested discourses" play a pivotal role in defining the terrain of politics, the objects of governance, as well as those who are recognised as political actors" (2002, 382). In one sense, discourse analysis challenges abstraction because it provides a way to focus on the historical and contextual meaning ascribed to core political concepts and practices such as citizen, the social or rights (Brodie 2002, 382). Discourse analysis relocates the meaning-making process into particular historical contexts (Henry and Tator 2000, citing Fiske 1994, 29). While there are a myriad of different uses of the term discourse, for the purposes here, discourses are defined as "...ways of referring to or constructing knowledge about a particular topic of practice: a cluster or formation of ideas, images and practices, which provide ways of talking about, forms of knowledge and conduct associated with, a particular topic, social activity or institutional site in society" (Henry and Tator 2000, 29).

Each chapter begins by building up the socio-political and legislative context of each of the case studies. Within the scope of each chapter, I discuss the discursive sites or domains in question (i.e. media, legal discourse) in order to flesh out the ways in which different discursive domains contain particular social practices and conventional genres (Bloor and Bloor 2007, 8). Third, in each chapter I provide a brief sketch of how the case study in the

pre- and post-September 11 context would likely be understood by mainstream Canadian citizenship studies.

Fourth, the substantive core of each chapter is a discursive analysis of the texts identified in each case study. In Chapter 2, I examine news reports in *The Gazette (Montreal)* between January 1 1985 and January 1 2010. Chapter 3 focuses on an archival search of the *Excalibur*, York University's community newspaper. My analysis focus on relevant news coverage between September 1980 and April 2010. Finally, in Chapter 4, I examined the Federal Court, Federal Court of Appeal and Supreme Court of Canada rulings in two legal cases on security certificates, *Suresh v. Canada (Minister of Citizenship and Immigration)* [2002] [hereafter *Suresh*] and *Charkaoui v. Canada (Minister of Citizenship and Immigration)* [2007] [hereafter *Charkaoui I*].

While this is not a strict critical discourse analysis (CDA), I adopted some elements of content analysis in examining these texts. Berg describes content analysis as "...a careful, detailed, systematic examination and interpretation of a particular body of material in an effort to identity patterns, themes, biases, and meanings" (2009, 338). While a strict content analysis often involves particular modes of counting and coding, the approach taken here was more thematic, focussing on both manifest and latent content¹⁹, and also using a combination of inductive and deductive strategies to identify dimensions and themes that are meaningful to the analysis. The inductive approach involves immersing myself in the documents to identify the *dimensions or themes that seem meaningful to the producers of each*

¹⁹ While this dissertation will consider both manifest and latent content, the focus is more specifically on the latter. While manifest content describes elements that are physically present and can be counted, latent content calls for an interpreting reading of symbols and signs (Berg 2009, 343). Part of the interest in this latter approach is considering how signs may differ or stay the same across different discursive domains.

message (Berg 2009, 347). The deductive approach will involve the use of a loose categorical scheme suggested by the theoretical framework described above.

In each case study, a close textual reading of the articles or judicial decisions was undertaken using an informal discourse analysis that focused primarily on frames. A frame is a specific problem-representation (Saharso and Lettinga 2008, 462). Frames give meaning to certain situations – they not only interpret but create policy problems and policy solutions (Kilic et al. 2008, 403). In this way, the analyses focused primarily on identifying thematic frames and dominant discourses, as opposed to some of the more traditional elements involving counting in critical discourse analysis.

In addition to drawing directly from the literatures informing my theoretical framework, in order to reorient the analysis away from a focus on citizenship status to consider governance and citizenship as a form of regulation, the analysis in each case study was guided specifically by Deans (1999) description of a series of four relatively autonomous, but reciprocally conditioning questions informing an analytics of government:

First, how do we visualize who and what is to be governed, how relations of authority and obedience are constituted, what problems are to be solved, and what objectives are sought (Dean 1999, 30)?

Second, through what “means, mechanisms, procedures, instruments, tactics, techniques and vocabularies” are authority and rule secured and accomplished (Dean 1999, 31)?

Third, what forms of “knowledge, expertise, strategies, and means of calculation or rationality” are harnessed in governing practices (Dean 1999, 31)?

Fourth, what are the forms of identity, or the processes of identification through which governing operates (Dean 1999, 32)? What forms of identity are presupposed by the practices and strategies of government, and what sorts of transformations do those practices seek to enact (Dean 1999, 32). And, what statuses, capacities, attributes and orientation are affixed to those who govern and those who are governed (Dean 1999, 32)?

The point here is to sketch a picture of the citizenship regime, as well as what the regime 'needs' to thrive.

Following Strauss' suggestion that when conducting open coding researchers ask the data a specific and consistent set of questions, keep the original study aim in mind but still remain open to multiple or unanticipated results that emerge from the data, in addition to the four framing questions, a number of questions were asked of each text studied (as cited in Berg 2009, 355):

- 1) How is 'us' and 'them' articulated and constructed? Who is doing the constructing?
- 2) What are the characteristics and values of the good citizen/the nation?
- 3) How is power exercised in this situation?
- 4) How is identity and citizenship being harnessed? At what level?
- 5) Who and what threatens the good citizen?
- 6) How are security and insecurity constructed? What is missing?
- 7) How is multiculturalism operating?
- 8) How is 'race' operating in tandem with ethnicity, culture, religion, and gender in particular? What is the crisis and for whom?



Chapter 2: Citizenship and the 'Crisis' over the Veil: Cultivating Internal Exclusions

2.1 INTRODUCTION

In the period following September 11 2001, one subject has emerged as a particularly pointed site of citizenship anxiety and cultivation: Muslim women, or perhaps more true to actual discourse, 'The Muslim Woman'. In this period, a series of deeply racialized (and racist), and gendered (and sexist), controversies have erupted, largely, but not solely, in Québec, wherein the public presence, participation and integration of Muslim women who wear hijabs, niqabs or burqas has been debated ad nauseam. Through these debates, one point is clear: Muslim women, both those that do wear some type of Islamic veil or headscarf, as well as those that do not, have a fundamentally precarious status. Both are positioned on the borders of formal and substantive belonging, and the cultivation and crafting of the subjectivity and status of each produces an extremely powerful disciplinary message to the other. Put simply, for Muslim women, citizenship status is not coterminous with substantive belonging, nor is citizenship status coterminous with the formal guarantees and entitlements that all citizens supposedly possess.

In more recent iterations in Québec, 'The Muslim Woman' as a citizenship problem 'to be solved' has come to be read largely through the lens of reasonable accommodation, a sliding signifier that has departed in important ways from its more constrained legal application to become an interpretive stand-in for a host of earlier citizenship discourses we are well accustomed to (e.g. tolerance, multiculturalism, interculturalism, etc...). Moreover, reasonable accommodation has emerged not only as a powerful and intensely productive strategy of 'diversity management', but the 'crisis' itself has been transformed into an important marker of time. Here, the debate and anxiety over Muslim women who wear the

hijab, burqa or niqab is identified as beginning and ending with the ‘reasonable accommodation crisis’, and the Bouchard-Taylor Commission itself.²⁰

Whether our point of interrogation is September 11 2001, or the ‘reasonable accommodation crisis’ dating from 2007, what we actually see is that as far back as the early 1990s, we can identify another series of extensive debates in the province of Québec precisely about the public presence, participation and integration of Muslim women who wear some type of Islamic veil. And, with controversy arising again in Québec in March 2010²¹, culminating in the tabling and subsequent passing of Bill 94²², it becomes important to imagine an alternate rendering of the lineage and trajectory of this particular citizenship discourse.

This chapter emphasizes the fact that Canadian citizenship has historically been precarious for women racialized as non-White, and that the lineage of this particular anxiety far predates events that are conventionally described as fundamental ruptures. In this vein, I ask: how can we capture and describe the changes to the *governance* of Canadian Muslim women, particularly when mainstream Canadian citizenship scholarship has been uniquely ill-equipped to describe the citizenship experiences of those are characterized as departing from the citizenship ‘norm’ (i.e. White and Christian)? How does an alternate analytic

²⁰ In 2007, Québec Premier Jean Charest established the Consultation Commission on Accommodation Practices Related to Cultural Differences, later known simply as the Bouchard-Taylor Commission. The commission would be headed by prominent academics Charles Taylor and Gérard Bouchard. The final report of the commission, “Building the Future: A Time for Reconciliation”, was released in May 2008.

²¹ Naema Ahmed, a Muslim woman who immigrated to Canada from Egypt, was expelled from a French-language class in Québec over her refusal to remove her niqab.

²² While it is beyond the time period examined here, the tenuousness of formal citizenship guarantees resonates particularly strong given the tabling and subsequent passing of Bill 94 (An Act to establish guidelines governing accommodation requests within the Administration and certain institutions) in Québec. The bill effectively bars Muslim women from receiving or delivering public services while wearing a niqab.

approach that treats citizenship as a governmental strategy that regulates through race, security and notions of dissent change our sense of time and transition in meaningful ways?

To consider these questions, this chapter hones in on the long-standing anxiety over the religious practices and public presence of Muslim women in Canada by examining media reports in the *Montreal Gazette* over a 25 year period (1985-2010). Focusing on citizenship as regulation as well as the notion of regulated inclusion, I argue that there are, in fact, significant continuities in terms of the governance of Muslim women across the study period. This disrupts liberal timelines which posit an evolutionary and linear citizenship trajectory in which the events of 9/11 and/or the reasonable accommodation crisis substantively altered the ways in which those who occupy the margins are regulated.

The chapter proceeds as follows. First, after providing an overview of the background and timeline regarding the controversies over Islamic veils and reasonable accommodation in Québec, the bulk of this chapter consists of an analysis of the text along three key dimensions: citizenship and the exception; citizenship and security; and, citizenship and dissent.

2.2 SITUATION 'THE PROBLEM' - BACKGROUND AND TIMELINE

Before moving onto an analysis of the texts from the *The Gazette*, this section provides a timeline between 1985 and 2010 that captures: 1) when *Canadian* Muslim girls and women wearing a hijab, niqab or burqa were deemed 'newsworthy'; 2) at what points reasonable accommodation became explicitly intertwined with the scripts on and governance of these same women and girls, and; 3) how these events can be contextualized within key moments of Québec's citizenship and 'diversity management' trajectory.

This 25-year timeline is divided into five main periods. In Period 1 (1985-1993), there was minimal reporting on reasonable accommodation, or on *Canadian* Muslim women wearing some type of Islamic veil. There was, however, significant activity on the ‘diversity management’ front, with the Québec government taking an extremely active interest in ‘cultural communities’ as the sovereignty movement began to build. Moreover, there was international coverage of issues pertaining to the veiling practices of Muslim women, particularly in the context of France with “*l’affaire du foulard*” and Iran, but with attention also paid to Israel/Palestine, Pakistan and Saudi Arabia.

In Period 2 (1993-1999), there is an intense cluster of controversy around Muslim women and girls wearing hijabs. This period is also one of deep struggle related to the 1995 sovereignty referendum and marks a shift on the ‘diversity management’ front from a focus on the integration of “cultural communities” to a broad focus on Québec citizenship.

Period 3 (1999-2003) is notable for the lack of reporting on specific controversies involving Canadian Muslim women who veil. There is, however, extensive international attention paid to the veiling practices of women in Afghanistan.

Period 4 (2003-2006) sees one major controversy erupt – specifically around the wearing of hijabs in private schools.

Finally, Period 5 (2006-2010) is triggered by a Supreme Court of Canada decision regarding the kirpan. This last period is notable because of the fervour of the debates about Muslim women who wear some type of Islamic veil, and also because the terms of the debate become consumed by the language of reasonable accommodation, and contextualized within a growing hysteria about a variety of supposed accommodations made to ethnocultural minority groups in Québec. The period is also significant and distinct from previous ones in

that all dimensions of ‘diversity management’ are now read through the lens of reasonable accommodation.

Period 1: 1985-1993

Prior to 1985, the term reasonable accommodation had been used in a variety of human rights contexts, ranging from allowing a Sikh employee to wear a kirpan at his place of employment, to questions pertaining to the relationship between a landlord and tenant (Abu-Laban and Abu-Laban 2007, 30). It was in 1985 that the Supreme Court of Canada defined the principle of reasonable accommodation in *Ontario Human Rights Commission v. Simpson Sears*²³, however unlike the Supreme Court’s reasonable accommodation decision regarding the kirpan in *Multani v. Commission scolaire Marguerite-Bourgeoys* [2006] [hereafter *Multani*], the 1985 case incited little to no popular commentary. Consequently, between 1985 and 1993, there is minimal reporting in *The Gazette* that specifically references either reasonable accommodation, or *Canadian* Muslim women who wear some type of Islamic veil.²⁴

Internationally, this was a significant period in terms of the regulation of Muslim women wearing Islamic coverings, particularly in France. Ulbrich reports on the start of

²³ In this decision, the court ruled that Theresa O’Malley, a Seventh-day Adventist, should not have been fired by her employer because she refused to work Friday evening and Saturday morning. O’Malley had refused to work in order to observe the Sabbath. The court explained that the principle of reasonable accommodation is positioned specifically in the context of substantive equality. Both private enterprise and institutions of the state may be required, in certain cases, to modify norms, practices and policies that when universally applied adversely impact or discriminate against an individual or group based on one or more of the enumerated and analogous grounds of discrimination listed in section 15 of the Canadian Charter or section 10 of the *Québec Charter of Human Rights and Freedoms* [hereafter *Québec Charter*]. The onus is on the individual to demonstrate how the contested norm adversely affected his/her equality rights, and if a violation has been found, the individual must collaborate with the institution by making his/her needs known, and by accepting a reasonable solution (Koussens, 2009, 205). The standard of reasonableness is defined, in part, by the notion of undue hardship.

²⁴ While it is beyond the scope of this chapter, during this period one can identify a number of international reports that are focussed on Muslim women and their dress, meaning that this subject does maintain an ongoing presence throughout the entire twenty-five year period.

'l'affaire du foulard' in 1989 when three “North African girls” were suspended from junior high school because they refused to remove their hijabs (1989, B1). The principal of the school described wearing hijabs as a “proselytic declaration”, worrying that these three girls could be 1000 or 50,000, a concern echoing the racist worries of the extreme right in France over the “Lebanonization of France” (Ulbrich 1989, B1). The secretary general of the National Education Federation, France’s largest teacher’s union, stressed that the right to education must take precedence over religious customs (Ulbrich 1989, B1). Officially at the time, however, the French Education minister would reassure that, “There is no threat to the French Republic by fundamentalist Islam. If this republic doesn’t know how to respond in a humanitarian way to a handful of young girls wearing scarves, I would be worried” (*The Gazette* 1989, F8). Notably, *'l'affaire du foulard'* would receive minimal attention in this English language daily, a trend that would no doubt be different in francophone newspapers. International attention would also be paid to the dress of Muslim women in Iran, Pakistan and Israel/Palestine.²⁵

²⁵ See for example: Bernd Debusmann, “Covering war means dressing for the occasion”, *Gazette (Montreal)*, February 22, 1989, A13; *Gazette (Montreal)*, “Iranian women face lash for wearing makeup”, *Gazette (Montreal)*, April 19, 1989, A2; Aileen McCabe, “Defiant Iranian women stretch rules and bodies in straight-laced Tehran”, *Gazette (Montreal)*, October 30, 1989, E7; *Gazette (Montreal)*, “Iranian women march for chastity”, *Gazette (Montreal)*, January 13, 1990, D8; Carol Morello, “Iranian women’s traditional dress codes are feeling the heat”, *Gazette (Montreal)*, July 15, 1990, B4; Marianna Alireza, “Lifting the veil on Saudi women: Female GIs shock and excite Muslim sisters”, *Gazette (Montreal)*, September 15, 1990, A1; *Gazette (Montreal)*, “Iranian appeals for more freedom for women”, *Gazette (Montreal)*, February 5, 1991, A8; Katayon Ghazi, “Harsh rules against women being to ease”, *Gazette (Montreal)*, June 16, 1991, B5; Diana Jean Schemo, “Intifada forcing women to cover up”, *Gazette (Montreal)*, July 15, 1991, A1; *Gazette (Montreal)*, “No peepholes; Iran moves on offices to enforce dress code”, *Gazette (Montreal)*, August 7, 1991, D12; Deborah Scroggins, “Beneath the veil – and behind bars; Pakistan’s rigid sex laws make Muslim women vulnerable to harsh penalties”, *Gazette (Montreal)*, July 13, 1992, C1; Jacquie Miller, “Ottawa won’t stop deportation of Saudi who refuses veil”, *Gazette (Montreal)*, September 9, 1992, B8; Kim Murphy, “In Iran, the Mullahs crack down as economy sours; Women without correct Muslim dress hauled to jail”, *Gazette (Montreal)*, October 1, 1992, D10; Karin Laub, “What do you wear to the intifada? You could try drag”, *Gazette (Montreal)*, May 4, 1993, A8.

This was, not, however a quiet period in terms of citizenship and diversity management within Québec or Canada more broadly, with the 1980s and early 1990s clearly marked by growing competition between the federal and provincial governments acted out on the terrain of rights and identities.²⁶ Juteau explains that as the primacy of French in the public sphere was established, linguistic issues started to lose their centrality within Québec, and this period would see the sovereignty movement attempt to mobilize and form a community, across “ethnic boundaries”, in order to develop a common identity that coincided with the province’s territorial boundaries (2002, 444).²⁷ Moreover, until the 1995 referendum on sovereignty, ethnocultural minorities would replace “les Anglais” as the “significant ‘other’”, and would be actively wooed by the government (Juteau 2002, 444).

As such, Juteau describes this period as one of rapprochement between the Québec majority (White francophone Québécois) and “other residents in Québec” (2002, 444). For Salée, this was a period of cultural convergence, wherein all cultures present in Québec society were to be preserved and encouraged to express themselves in the public sphere via the French language (2007, 109). The stress here was on intercultural contact and exchange between the French-speaking majority and all other cultural and linguistic communities (Salée 2007, 109). The reality at this point, however, was that members of “cultural communities” were not yet imagined as Québécois – this was a pluralist conception of territory, not national community (Juteau 2002, 444).

²⁶ The period included the passing of Bill 107 in 1988 by the Québec National Assembly; the failure of the 1988 Meech Lake Accord; the signing of the Québec Canada Accord concerning immigration in 1991, and; the failure of the 1992 Charlottetown Accord. Bill 107 would replace the Québec denominational school boards with linguistic ones however this would not formally occur until 1997.

²⁷ Salée describes how Québec began to implement more precise measures intended to facilitate the integration of immigrants and members of ethnocultural minorities into the mainstream socio-economic networks of Québec society (2007, 108).

Nonetheless, in addition to a particular kind of institutional ‘folding-in’ of immigrants and ethnocultural minorities, the language of government changed as well, with the Québec government creating the *Ministère des communautés culturelles et de l’immigration* – Ministry of Cultural Communities and Immigration (MCCI), as well as the permanent *Conseil des communautés culturelles et de l’immigration* – the Council for Cultural Communities and Immigration (CCCI) (Juteau 2002, 444).²⁸ By 1990, the government of Québec proposed a “moral contract” in the plan *Au Québec pour bâtir ensemble: Énoncé de politique en matière d’immigration et d’intégration* - Let’s Build Québec Together: A Policy Statement on Immigration and Integration. The plan defined integration as the antithesis to assimilation (Marharaoui 2005, 45), it presented Québec as a distinct society, and it adopted the expression “*Québécois des communautés culturelles*” (Québécois cultural communities) formally establishing that these communities were indeed Québécois (Juteau 2002, 445). The policy also outlined three commitments characterizing Québec: 1) French as the common language of public life; 2) democracy and participation, and; 3) pluralism and inter-community exchange (Bouchard and Taylor 2008, 117).

Period 2: 1993 - 1999

International events in the latter years of the first period, specifically the Persian Gulf War (August 1990 – February 1991) and the war in Bosnia (March 1992- November 1995) are notable in that they also contributed to what would be a period of significant activity

²⁸ The MCCI’s responsibilities included coordinating and implementing the government’s plan for “cultural communities”. In addition to fostering the integration of cultural communities, the plan also intended to “maintain and develop cultural communities” and “sensitise Quebec [*sic*] Francophones to the contribution made by cultural communities”. Established in 1984 by the Québec National Assembly, the CCCI was an autonomous and permanent 15-member body whose function was to advise the minister on issues relating to the integration of immigrants as well as on intercultural relations (See Juteau 2002, 444).

around Muslim girls/women and the hijab, particularly in the context of public education.²⁹ Moreover, the ongoing controversy over the veil in France led to almost one hundred girls being expelled between 1989 and 2003 for wearing a hijab at school, with the busiest years being 1996 and 1997 (Jones 2009, 56).³⁰ This would undoubtedly have an impact on the discourse in Québec, even though coverage in *The Gazette* was not as extensive as what one might expect from a francophone daily. Finally, this first cluster of controversies in Québec would also coincide with the bitterly close 1995 Québec sovereignty referendum.

To start, this period would be significant in that reasonable accommodation would receive some measure of sustained attention, foreshadowing the nature of the conversations to come in the post-9/11 period. That the accommodation issue would arise in 1993, the declared year of intercultural and interracial harmony in Montreal was notable (Porter 1993, G5). Responding to a number of accommodation requests³¹, in August 1993, the CCCI released a report offering guidance to institutions negotiating reasonable accommodations with “newcomer” cultural groups (Norris 1993, A6). According to then president, Raymonde

²⁹ See for example: Alan Sipress, “Veils issue pits parents against Egyptian government; Decision to prohibit the traditional head scarf in school hits Muslim country like a thunderbolt”, *Gazette (Montreal)*, October 1, 1994, B3; Mae Ghalwash, “Egypt bans long veil at school: Islamists say the decree violates Islamic dictates”, *Gazette (Montreal)*, May 23, 1996, B1; Ahmed Rashid, “Iran’s changing face: Paris-influenced hijab fashion points to wider transitions”, *Gazette (Montreal)*, May 13, 1998, A21; *Gazette (Montreal)*, “Garb doesn’t hold Iran’s athletes back: Women are participating in sports despite religious dress code, breaking barriers as they go”, *Gazette (Montreal)*, June 29, 1998, F5; Maura Casey, “Leadership from the shadow: Despite hijabs, Iranian women are making solid gains”, *Gazette (Montreal)*, August 27, 1998, B3; Pamela Constable, “Behind the burqa: Taliban-style garb gives women feelings of security and humiliation”, *Gazette (Montreal)*, October 8, 1998, B3; Harry Sterling, “Turkey confronts scarves”, *Gazette (Montreal)*, May 21, 1999, B3. Notably, the Oka Crisis (July 1990-September 1990) also occurred during Period 1 and is important to consider when thinking about notions of nation, nationalism, crisis, citizenship and security in Québec. The search terms used to identify *Gazette (Montreal)* articles for this chapter did not yield stories on Oka.

³⁰ The debate over hijabs would culminate in legislation in 2004 which prohibited the wearing of any religious signs in public schools (Jones, 2009, 67).

³¹ This included Muslim employees wanting time off for prayers, complaints over food by Jewish prisoners, a request by the parents of a Muslim girl that the daughter be excused from physical education classes because of the clothing, and concerns regarding power failures during Chinese New Year celebrations (Norris, 1993, A6).

Folco, this “proliferation of diverse cultural practices brings the potential for conflict”, and that in order to prevent “nasty court battles and unnecessary acrimony”, institutions must be able to negotiate reasonable accommodations between the practices of “established cultural groups – like English and French Québécois, Catholics and Jews – and those of relative newcomers, like Chinese Canadians, Muslims and Hindus” (Norris 1993, A6). While the report noted that indirect discrimination against minority groups was forbidden, the report stressed that institutions are not always required to take on extra costs associated with accommodations, and Québec as a number of “non-negotiable” cultural practices that cannot be violated by accommodations, including cultural pluralism, parliamentary democracy, the division of church and state, and French as the common language (Norris 1993, A6).

Three months later, *The Gazette* would publish a letter by then minister of CCCI, Monique Gagnon-Tremblay, in which the minister described the moral contract those seeking to immigrate to Québec would be bound to. Here, civil liberties, the sovereignty of Parliament, the rule of law, a secular state, French as the common language, the peaceful resolution of conflict, the equality of citizens, and more specifically the equality of men and women were described as “non negotiable” values (Tremblay-Gagnon 1993, B3). The minister would go on to address the nature of reasonable accommodations themselves, providing a number of guiding principles in assessing whether there is a judicial obligation to accommodate, noting that: 1) while there is an obligation to try to accommodate when discrimination exists, accommodations are exceptions and not the rule; 2) that the term reasonable “implies the relative and reciprocal nature of the obligation”; 3) that there is a preference that reasonable accommodations be managed outside of the judicial system; 4)

that the state remain “neutral” towards religions, and; 5) that accommodations be focused on “integration and rapprochement” (Tremblay-Gagnon 1993, B3).

It would be significant then that the first major hijab-related controversy would occur within months.³² In December 1993, Judge Richard Alary of Longueuil municipal court expelled Wafaa Moussiyne from his courtroom for refusing to remove her hijab. It was later reported that in a discussion with Moussiyne’s lawyer, Alary said: “When one goes to Rome, one lives like the Romans. If I went to Saudi Arabia, my wife wouldn’t like it because she’d have to follow (Saudi custom)” (Siddiqui 1994, B2). As part of an investigation ordered by then-Justice Minister Gil Remillard, Alary made a 15-minute appearance before a sympathetic Québec Judicial Council composed of 5 middle-aged “French-Canadian” men, and offered no apology (Norris 1994, A5). Moussiyne also appeared and was interrogated by Alary’s counsel specifically regarding the strength of her religious convictions. The implication of the questioning was that Moussiyne was not a devout Muslim and wore her hijab as a legal tactic. The Québec Judicial Council ultimately dismissed the complaint of racial intolerance, ruling that Alary did nothing wrong in asking Moussiyne to leave the courtroom, and that “...judges have the right to examine the seriousness of the religious conviction and the impact the accommodation will have on the operation of the court and proper order” (Baker 1994, A1).

A second hijab controversy arose just months later, two days prior to Jacques Parizeau’s (Parti Québécois) September 1994 defeat of incumbent Daniel Johnson (Québec

³² Outside of Quebec, on Remembrance Day in 1993, three Sikh veterans were denied entrance to a branch of the Royal Canadian Legion in Surrey, British Columbia because they would not remove their Turban (Editorial 1993, B2).

Liberal Party) in the provincial election. Émilie Ouimet, a 13 year old girl, was expelled from École Louis-Riel because her hijab contravened the school's dress code which restricted students from "marginalizing themselves" by wearing distinctive clothing.³³ In justifying the dress code, Principal Normand Doré stated that "Distinctive clothing like a hijab or neo-Nazi regalia could polarize aggression among young people" (Wells 1994, A13). Michel Charron, director of intercultural relations at the Montreal Catholic School Commission (MCSC) stated that Ouimet's expulsion had nothing to do with religious discrimination and that it was just part of the school's own "educational project" (Wells 1994, A13).

Also in September 1994, a Montreal newspaper reported that the Muslim Schools of Montreal had made it compulsory for all female teachers to wear a hijab, regardless of their religious conviction. And, in December 1994, 15 year old Dania Baali was told by College Regina Assumpta that she would need to find a new school because her hijab violated a new dress code.

Ultimately, Ouimet's parents filed a complaint with the Québec Human Rights Commission (QHRC). In February 1995, the QHRC released a study ("Religious pluralism in Québec: a social and ethical challenge"), ruling in favour of Ouimet's parents, and authorizing Ouimet to wear the hijab at her public school. The study indicated that public schools could not block access to their services for students wearing an "Islamic veil" for religious reasons, that the right to equality was guaranteed by the Canadian and Québec Charters, that every child had a right to receive public education, as well as the right to attend the educational establishment of one's choice (Marois 2005, 1; Koussens 2009, 206). The study also acknowledged that some restrictions were possible or necessary if sex equality, public order

³³ Ouimet subsequently decided to attend a different school.

and security were in jeopardy (Marois 2005, 1). Moreover, the study indicated that while the requirement to wear a hijab could apply to Muslim staff at Islamic schools, this requirement could not be applied to non-Muslim staff (Koussens 2009, 206).

In response to the QHRC's study, Michel Pallascio, chairman of the MCSC stated that he would *not* pressure schools falling under his mandate to change dress codes (Adolph and Block 1995, B2). This stood in contrast to the response of the Muslims Schools of Montreal who voluntarily decided to heed the commission's recommendations regarding the religious freedoms of its non-Muslim teachers (Editorial 1995, B4).³⁴

In May 1995, the *Centrale de l'enseignement du Québec* – the Federation of Québec Teachers (CEQ), voted that no “*signe ostentaire*” be permitted in Québec schools, in effect calling for a ban of the hijab (McDonough 2003, 124). In addition to listing a number of non-negotiable matters, including co-education, curriculum and equality between the sexes, the CEQ pronounced themselves against female circumcision, and asked for a public discussion as to what degree of conduct was reasonable in terms of “freedom of religion, liberty of conscience and equality between men and women” (McDonough 2003, 124).³⁵

With the second referendum on sovereignty held on October 30, 1995, and the ‘yes’ side experiencing defeat in an extremely close and bitter battle (50.58% to 49.42%), Juteau describes a significant shift in Québec's ‘diversity management strategy’, given that the

³⁴ Pallascio's adamant and public resistance incited much controversy with some noting that his attention to the hijab was disproportionate given that the MCSC's individual drop-out rates were reported to have hit 70% (Bagnall 1996, A13). Also in the spring of 1995, the Estates General in Education would be piloted by the commission for the Estates General on Education in order to review the state of public education in Québec. Hearings were held in each region of the province and there was significant discussion about confessional school boards and linguistic school boards, as well as the issue of secularity and religious freedom.

³⁵ In a *Gazette* editorial that month, this move was described as an “egalitarian impulse on the part of the teachers to spread the intolerance around” (1995, B4).

previous strategy to “woo” immigrants “did not swing their vote and did not bring them to embrace the nationalist project” (2002, 446). It was in this context that Premier Jacques Parizeau (Parti Québécois), made his now infamous concession speech in which he blamed the defeat of the referendum on “l’argent puis des votes ethniques”.³⁶

After the referendum, the previous discourse around ‘cultural communities’ evaporated as the project became about securing a Québécois *citizenship*, and asserting a Québec nationality and French-speaking cultural and political identity (Salée 2007, 116). In 1996, the MCCI was replaced with the *Ministère des relations avec les citoyens et de l’immigration* – Ministry of Relations with Citizens and Immigration (MRCI), and the CCCI advisory council was renamed the *Conseil des relations interculturelles* – Council for Intercultural Relations (CRI). In addition, the *Semaine Québécois de la citoyenneté* - Québec Week on Citizenship was launched in 1997; a *Forum national sur la citoyenneté* – National Forum on Citizenship was organized in 2000, and; in 2001, the report of the *États généraux sur la situation et l’avenir de la langue française* – Estate general on the situation and future of the French language was released (Juteau 2002, 447). Essentially, the Québec government began to formally “deethnicize” its approach to citizenship, framing diversity and integration in terms of a thick definition of Québec citizenship that emphasised the status of individuals as citizens, and that subordinated “nonfrancophone forms of ethnic identification to a national community and a common culture primarily defined by the French-speaking majority” (Salée 2007, 115-116).³⁷

³⁶ This was largely translated in the English media as “money and the ethnic vote” as opposed to the correct translation “money and ethnic votes”.

³⁷ Within this context, another hijab dispute arose, and was quickly resolved, in September 1998 with the expulsion of Najat Halpa from École Secondaire Msgr. Richard. Halpa’s father immediately contacted QHRC, who spoke with the principle of the school, and the following day, Halpa was back in class.

Period 3: 1999-2003

Notably, between September 1999 and September 2003, reporting on *Canadian* Muslim women wearing some type of Islamic veil is significantly limited in *The Gazette (Montreal)* and but for some backlash against the francophone CBC reporter, Céline Galipeau wearing a headscarf while reporting from Pakistan (Editorial 2001, B2) there are no specific hijab-related controversies that arise during this period. Domestic coverage includes some discussions of accommodations made to Muslim and Orthodox Jews in gyms (Barker 1999, F1); coverage of academic discussions on the hijab (Charlton 1999, A3); articles highlighting the meaning of the veil for diverse Muslim women (Hussain 1999, B2; Nofal 1999, B2; Khan 1999, B6; Virk 2001, B2; Friede 2002, D1), and; reporting on the outlawing of the wearing of headscarves or face masks during the Summit of the Americas in Québec (Khan 2001, B2).

The bulk of the coverage is international in nature (Bahramitash and Hoodfar 2001, B3; Lehmann 2001, I1), with particular attention paid to Afghani women who wear burqa's after 9/11 (Nebenzahl 2001, B1; Nove, 2001, B3; Filipov 2001, B2; Moore 2001, A1; Macintyre et al. 2001, A7; Friede, 2001, D1; Bagnall 2001, B3; Hedges 2001, A13; Dowd 2001, B3; Reynolds 2001, A13; Stachiew 2002, G2; Sly and Laughlin 2002, B3; Donnelly 2002, J3

Period 4: 2003-2006

Just months after another provincial election in which Jean Charest (Québec Liberal Party) defeated incumbent Bernard Landry (Parti Québécois), Collège Charlemagne, a private school, expelled Irene Waseem in September 2003 for wearing a hijab.³⁸ Responding to criticism by the QHRC, the head of the *Direction des services aux communautés culturelles* of the Québec Education Department stated that the government could not intervene in the

³⁸ Waseem subsequently transferred to a public school.

case of private schools (Jayoush 2003, A2). The QHRC commenced an investigation, but thirteen months later had still failed to issue a decision, and Waseem subsequently decided to drop her case (Heinrich 2005, A9).³⁹ In June 2005, the QHRC finally released its non-binding legal opinion - the opinion was described as having “moral authority” (Lampert 2005, A3). The commission concluded that it was wrong for College Charlemagne to forbid Waseem to wear her hijab, and that the college’s private status was irrelevant because private, not-for-profit schools have the same obligation as public schools to make reasonable accommodations for their student’s religious beliefs. In October 2005, the Québec government stated that it would *not* force Québec private schools to accept the hijab as it is up to each institution to apply the rule as it sees fit (*Gazette* 2005, A5).

A second controversy emerged in June 2004, when a woman arriving at the Pierre Elliott Trudeau airport was asked by Canadian immigration officials to remove her hijab so she could be photographed for her immigration application (Stastna 2004, A7). Then Prime Minister Paul Martin stated that allowances should be made for “practitioners of religious faiths that prohibit the removal of head coverings. Immigration Canada does not require the head covering to be completely removed, but for security purposes, all facial features must be visible for the photographs” (Hustak 2004, A12).⁴⁰

³⁹ There is some suggestion that the delay is linked to a new wave of anti-Muslim “sentiment” in the wake of France’s decision to ban the wearing of ‘conspicuous religious symbols’ in French public primary and secondary schools (Cornacchia 2004, A7). Given the reticence of the QHRC, in February 2005 the Muslim Council of Montreal called for an inquiry into how the QHRC handled complaints for the banning of the hijab in private schools. Information emerged that the commission seemed to have issued an internal report in 2004 stating that it would decide that wearing a hijab would be a reasonable accommodation (Heinrich 2005, A9).

⁴⁰ Hustak also reported that another four Muslim women had complained in the summer of 2004 that they were told to take off their hijabs so pictures of them could be taken for their permanent-residency cards (Hustak 2004, A12). In November 2004, Kinda Alard, a woman hired as a store clerk in Winnipeg is asked to remove her hijab to have her employee identification card photo taken. Alard refused to remove her hijab, and stated that she believed she had lost her job. At the time of the report, the company was attempting to contact Alard to let her know she still had her job and that the company would make sure all employees knew that employers

In the spring of 2005, the language of ‘diversity management’ once again shifted back to “cultural communities”, as the Charest government renamed the MRCI to the *Ministère de l’immigration et des communautés culturelles* – Ministry of Immigration and Cultural Communities (MICC) (Salée 2007, 131). All functions pertaining to citizens were reassigned to other ministries, reintroducing the notion of ‘cultural communities’ into the administrative vocabulary of the province, and, according to Salée, re-ethnicizing the relationship between the “Eurodescendent francophone majority” and ethnocultural minority groups (2007, 131). At the same time, in the 2004 action plan *Des valeurs partagées, des intérêts communs* – Shared Values and Common Interests, the government suggested that diversity can be a problem if ethnocultural communities do not abide by Québec’s social norms and values (Salée 2007, 132).

Period 5: 2006 - 2010

Undoubtedly, the Supreme Court of Canada’s decision in *Multani* was pivotal in inserting the language of reasonable accommodation into popular *parlance*. In 2006, the court overturned the 2004 decision of the Québec Court of Appeal, restoring a decision that the council of commissioners of the Commission Scolaire Marguerite-Bourgeoys made allowing Gurbag Singh Multani, a young Québec schoolboy who was an orthodox Sikh, to wear his kirpan, a ceremonial dagger, to school under certain conditions.⁴¹ This was despite a school ban on students carrying weapons. The backlash sparked by the decision was

were responsible for accommodating employees where there is a “genuinely held religious or cultural view” (Gazette (Montreal) 2004, A6).

⁴¹ The parents and the school administration had originally negotiated a reasonable accommodation wherein the kirpan was concealed under the boy’s clothing. The governing board of the school refused to ratify this on the grounds that it violated a prohibition against students carrying weapons.

intense, with many Québécois perceiving the ruling to be a federal government imposition of multiculturalism on Québec (Sharify-Funk 2009, 7).⁴²

Coinciding with election speculation and the decision rendered in *Multani*, was an extremely significant increase in media reporting of a variety of reasonable accommodation cases in the summer and fall of 2006. Some of these reported cases included, "...pregnant Muslim women who did not want to be seen by male doctors in Montreal-area hospitals; a Montreal YWCA installing frosted glass windows so that Hasidic Jewish congregation would not see women exercising; the offering of prenatal classes including fathers in deference to expecting mothers who are Sikh, Hindu and Muslim; and Mario Dumont seeking a reasonable accommodation to say Merry Christmas at the National Assembly's final session on December 14" (Abu-Laban and Abu-Laban 2007, 30).⁴³

In mid-January 2007, the results of a Leger Marketing survey on racism were widely reported, revealing that 43% of Québécois defined themselves as mildly racist, 15% as moderately racist and one percent as very racist – the results were largely reported as '59% of Québécois are racist' (Jiwani 2007, 2). In subsequent days, the survey was vociferously attacked on methodological grounds, yet the results of the survey only added to what would be characterized as *the* reasonable accommodation breaking point: Hérouxville. On January 25, 2007, this small Québec municipality passed a series of "life standards" or a code of conduct, a document destined for "immigrants éventuels" (future immigrants). Some of the

⁴² *La Presse* reportedly received more than 500 emails on the kirpan, almost all of them denouncing the Supreme Court's decision (Heinrich 2006, A10).

⁴³ Also in October 2006, then UK Prime Minister Tony Blair, in response to a question about whether Muslim women wearing a veil could make a contribution to society, responded: "That's a very difficult question" – he went on to say that the veil is "...a mark of separation and that is why it makes other people from outside the community feel uncomfortable" (*BBC News* 2006). Blair's comments prompted Premier of Ontario, Dalton McGuinty to confirm that he defends the right of Muslim women to wear veils that hide their faces (*CanWest News Service* 2006, A12).

listed standards included: affirmation of the public and private celebration of Christmas; that no ceremonial daggers are allowed in school; that there shall be no provision for prayer spaces in schools; that stoning women is forbidden, as is burning women with acid; that boys and girls are allowed to swim in the same pool; that one cannot walk around with one's face hidden except on Halloween; that female police can arrest male suspects, and; that women are allowed to dance, drive, and make decision for themselves (Mookerjea 2009, 177). As Gagnon describes, these "modes of behaviour were largely shaped by the counselor's strange fantasies and outdated stereotypes about Muslims" (Kin Gagnon 2007, 4).

By February 8, 2007, months of controversy during a heated pre-election campaign culminated in Premier Charest establishing the Consultation Commission on Accommodation Practices Related to Cultural Differences, later known simply as the Bouchard Taylor Commission. The commission would be headed by prominent academics Charles Taylor and Gérard Bouchard, and had a mandate to: "a) take stock of accommodation practices in Québec; b) analyse the attendant issues bearing in mind the experience of other societies; c) conduct an extensive consultation on this topic; and d) formulate recommendations to the government to ensure that accommodation practices conform to Québec's values as a pluralistic, democratic, egalitarian society". Charest's move was widely perceived to be politically motivated, with the intention being not simply just to defuse the situation, but to slow the momentum of Mario Dumont of the right-wing Action Démocratique du Québec (ADQ) who had been fully exploiting racialized and religious tensions to garner support for his party with an election looming in March 2007.⁴⁴

⁴⁴ Complicating the argument on political expediency, a version of the Bouchard-Taylor commission had already been created in October 2006 by Education Minister Jean Marc Fournier ("The Consultative Committee

On February 27 2007, *The Gazette* reported the case of Ashamah “Azzy” Mansour, a young girl barred from playing a game of soccer in Laval because of her hijab, (Jiwani 2007, 2). The issue took on an international dimension when a representative of the foreign ministry of Egypt sent a representative to the Canadian Embassy in Cairo to express concern about the case (Lackner 2007, A1). The decision would later be endorsed by Premier Jean Charest (Ravensbergen, Riga and Dougherty 2007, A1). In mid-March 2007, the *Gazette* also reported that a woman, Sondos Abdelatif, training to be a guard at Bordeaux jail in Québec had been dismissed because she “insisted” on wearing a hijab. Abdelatif had already passed all qualifying tests and had gone through a 20-day training period successfully (Ravensbergen 2007, A7). She was apparently dismissed for safety reasons.

Then, just days before the provincial election, Québec’s Chief Electoral Officer announced on March 23, 2007 that Muslim women wearing a face-obscuring veil (niqab) would not be required to lift their veils in order to verify their identity (Authier et al. 2007, A11). The decision sparked furious resistance, and an organized, extremist and racist backlash led to the subsequent overturning of the decision (Riga et al. 2007, A1). Just days later, in an extremely close election, Jean Charest won a plurality of seats, but was reduced to a minority government, the first in 129 years. Dumont and the ADQ would be the official opposition.

on Integration and Reasonable Accommodation”) to look into the principle of reasonable accommodation (Authier 2006, A1). Nonetheless, the public hearings for the Bouchard-Taylor commission would conveniently begin after the election in the fall of 2007. With the announcement of the commission, the reaction to Hérouxville, and the election buzz, there was an explosion of newspaper coverage on reasonable accommodation in the month of February.

Between April 2007 and December 2007, more controversies relating to gender, the hijab and Muslim women erupted:

April 2007: Muslim girls were barred from participating in a tae kwon do tournament for safety reasons.

September 2007: Québec Council on the Status of women called on the Québec government to ban visible religious symbols for anyone working in public institutions.⁴⁵

October 2007: Premier Charest moved to introduce an amendment to Québec's Charter that would prioritize equality of men and women over freedom of religion guarantees (Macpherson 2007, A1)

November 2007: A Muslim female baggage screener was suspended from her job at the Toronto airport because she modified her uniform by adding an extra 30 cm to the bottom of her skirt (Hanes 2007, A14).

November 2007: In Alberta, the family of a 14 year old girl demanded an apology (which they eventually received) from a referee who refused to allow her to play indoor soccer while wearing a hijab (Myers 2007, A12).

November 2007: Manitoba Sports Eric Robinson ordered the agency that governs provincial sports to review a decision that barred an 11-year girl from a judo tournament because of her hijab (*Gazette* 2007, A15).

November 2007: The media reported on the murder of Aqsa Parvez, a 16 year old girl murdered by her father – according to the report, the murder was possibly over her resistance to wearing a hijab, but this is later reported to have not necessarily been a factor (Wattie 2007, A3).

December 2007: Leaders of Québec's two biggest trade union federations and civil servants union – *Le Syndicat de la fonction public du Québec* (SFPQ) said that Québec needs a charter of secularism "to avoid anarchy, to avoid treating [reasonable accommodation] cases one by one" (Heinrich 2007, A4).

With the commission hearings in full swing, press coverage over actual accommodations related to Muslim women wearing some type of Islamic veil virtually stopped with the print media seeming to get enough ammunition from the public forums.

Then, in May 2008, the Bouchard-Taylor report was released, marking an attempt to change the terms of the debate, with its stress on secularism, harmonization, adjustments, adaptation, and its cautions against the identifiers visible minorities, cultural communities,

⁴⁵ This incited a strong backlash in the pages of *The Gazette* that the initiative was ethnocentric, racist, and irrelevant to the performance of women working in the public service.

Québécois de souche or Old Stock Québécois. The report identified a certain degree of responsibility for open-mindedness and the desire for change to lie with the “majority ethnocultural group”, precisely because it is within that milieu in which the crisis arose. Moreover, it identified the reasonable accommodation crisis as being perpetuated largely by media, as well as partial information and false perceptions. The commissioners suggested that it is possible to reconcile “Québécois” with practices of harmonization when it has been shown that these harmonization measures respect Québec society’s fundamental values; the measures do not create privilege; the measures encourage interaction; the measures are framed by guidelines instead of spiralling out of control, and; the measures are founded on the principle of reciprocity (Heinrich 2008, A4). The report also concluded specifically that no one has the right to impose or forbid that a woman wear a hijab, that women who wear a hijab suffer intimidation and discrimination, that there is a strong feminist current amongst Muslim women, that the hijab does not represent a real threat to Québec values, that the meanings of the hijab are multidimensional, and that the harm is greater if we deny a woman the freedom of choice to “display her deeply held convictions” (Heinrich 2008, A1).

In the aftermath of the commission, the controversy over Muslim women who wear some type of Islamic veil continued:

November 2008: A prominent Québec feminist attacked the New Democrat Party, the Bloc Québécois, Québec Solidaire, the Fédération des femmes du Québec as well as the Bouchard-Taylor commission for their stance on the hijab.

May 2009: The Fédération des femmes du Québec, the largest association representing Québec women, stated that there should not be a ban on the hijab.

June-August 2009: A series of letters to the editor appear in *The Gazette* about Muslim women and Islamic veils or headscarves. In reference to the case of Suaad Mohamud, a Canadian citizen stranded for months in Kenya

with the Canadian government reticent to provide support⁴⁶, one reader of *The Gazette* writes: “I am concerned about the treatment of Suaad Mohamud when she was stranded in Kenya. However, I understand the authorities. Her passport photo was taken when she was wearing the hijab, which I think should not be worn official photos. In a way, this is partly her fault” (DuNord 2009, A20).

October 9 2009: The Muslim Canadian Congress calls for a banning of the burqa.

Not least, while outside the time period examined in this paper, another series of controversies erupted in March 2010 at the CEJEP St-Laurent in Montreal when an “Egyptian woman”, who was enrolled in a language class for new immigrants, was asked to remove her niqab. A few days later, in response to a request by Québec’s health insurance board to clarify the issue, the QHRC ruled that a woman must uncover her face to confirm her identity when applying for a Québec medicare card (Scott and Dougherty 2010). Of the 146,000 applications for health care ID in 2008-2009, ten were from clients asking for special accommodation because of their niqab or burka (Scott and Dougherty 2010). And in 2010, the Québec government tabled and passed landmark legislation, Bill 94, that if people wish to obtain or deliver public provincial services (including health care or university education), for reasons of identification, security and communication, they cannot do so if their faces are covered.

With this context in mind, the remainder of this paper focuses specifically on mapping out the broad trends of continuity and discontinuity pertaining the citizenship and governance of Canadian Muslim women who veil between 1985 and 2010.

⁴⁶ Suaad Mohamud is a Canadian citizen who was stranded for months in Kenya, after Canadian officials inexplicably and erroneously branded her as an imposter. Her ordeal included being thrown into a Kenyan prison, and the government refused to reopen her case or take any steps to verify her identity, until her lawyer ultimately compelled them to.

2.3 FINDINGS

To examine whether the post-9/11 period constituted a period of departure with respect to the regulation of Muslim women in Canada, this analysis hones in on the long-standing anxiety over the religious practices and public presence of Muslim women in Canada by examining media reports in the *Montreal Gazette* over a 25 year period (January 1, 1985-January 1, 2010). Locally, *The Gazette* commands the attention of the provincial government in Québec, representing the interests of the province's Anglophone minority. As Jiwani describes, given that Montreal has a sizeable Muslim population, *The Gazette* attempts to reach out to these communities, all the while attempting to adhere to a hegemonic discourse about difference (2005, 16).

I constructed the article pool using two databases: ProQuest Newsstand Canadian Newsstand and Factiva. The search was conducted using the following key words and their derivatives: reasonable accommodation, head scarf, burqa (burka), hijab, niqab, Muslim veil, Islamic veil, Muslim women (Muslim woman). A "full article" search yielded 2272 hits. This pool was subsequently narrowed down to those articles applicable to the Canadian context as well as those articles where a clear and elaborated opinion about reasonable accommodation and/or the hijab, niqab or burqa was present. Articles referring to veiling in a descriptive way were discarded, as were book reviews, political cartoons, community events, and film reviews. News articles, letters to the editor (LTE), and editorials were all considered.

My analysis focused on identifying both continuities and discontinuities in governance frames, and in order to reflect upon and fill in the gaps I have already identified in mainstream liberal citizenship literature, observations and analyses were clustered into

three main categories: governing through exception; governing through crisis and security, and; governing dissent.

2.3.1 Governing through Exception

In combination with Foucauldian inspired governmentality analyses and key critical race interventions, Agamben's (2005) notion of governing through exception opens up analytic possibilities that challenge the description of citizenship trajectories offered up by liberal theories of differentiated citizenship. The focus on historicity requires that attention be paid to continuity, meaning that theories of Canadian citizenship must address how Canadian policy has continually governed through racialized and gendered zones of exception. Moreover, Agamben's notion of the state of exception focuses our attention on the way in which Muslim women who wear a hijab, niqab or burqa are delinked from their political and legal subjectivity through securitization and the exception. In this sense, broader notions of exception which are attentive to subjectivity are useful entry points to consider the ways in which Muslim women function and resist being internally excluded. For the purposes here, this section focuses on three key ways in which notions of exception inform citizenship practices related to Canadian Muslim women who wear an Islamic veil or headscarf: 1) Québec as exceptional; 2) racism as the exception, and; 3) Muslim women as the exception.

Québec as the exception ☞

The province of Québec is interesting because Québec itself occupies a particular kind of insider-outsider status in both the Canadian and Québécois imaginary. Embedded in the narrative of the latter is a history of conquest and colonization of the French by the English, layered on top of the often erased historical and ongoing colonization of First Nations, Inuit,

Métis and non-status Indigenous nations by both. Host to the national francophone minority, the history of Québec has often been presented as a united historical and contemporary struggle wherein the Québécois have sought to remain distinct while simultaneously striving for equality with the dominant group – English Canada (Juteau 2002, 442). At various points, this narrative has been expressed as a sort of melancholic nationalism, wherein the existence of the Québécois was embodied in a perpetual dilemma between *la survivance* (survival) and assimilation by a colonizing entity (Maclure 2004, 36). In more recent years, the narrative of Québec has been variably expressed as an ethnic nationalism or a civic one, or as a dual minority/majority status. The ambiguity here is that the exceptionalism of Québec relies, in part, on this notion of a colonial, historical and contemporary relationship between the English and the French. However, this narrative sits alongside a different one in which the ‘French fact’ is embedded in a dualistic rendering of the founding nations of Canada.

Both of these narratives do different work. The first fulfills the need of the nationalist drive by continually reproducing an image of Québec as an outsider – this outsider status not only emboldens the citizenry, but the outsider status produces an ongoing insecurity in order to do so. In the case of the second narrative, Québec is not marginal, and instead is imagined as entitled, original, foundational and an insider. Citing Daniel Salée, Stasiulis and Jhappan note that this latter narrative becomes particularly important given that Indigenous ‘nationalisms “...delegitimize the very foundations upon which Québec has built its claims for special status within the Canadian federation” (Stasiulis and Jhappan 2004, 121).

Consequently, that Québec’s exceptionalism relies on its insider-outsider status means that those governed by the province will be embedded in a project that is not only marked by, but also *requires* some degree of tenuousness, crisis and flux. Moreover, those

governed by the province will be embedded in a project where the conceptualization of where power lies must be continually inverted as a strategy of legitimacy.⁴⁷ This ongoing instability is extremely productive, informing the contours of citizenship and loyalty in significant ways. The moral legitimacy of Québec nationalism, in combination with the entitlement gained by having founding nation status, requires that citizens who do not find that the Québec identity is coterminous with theirs must accept their own insider-outsider status and wait for the insecurity to be resolved.

Over the entire 25-year period covered in this case study, the idea of Québec as an exception remains a constant.⁴⁸ One reoccurring version of this exceptionality is the tendency to distinguish Québec from France, a tendency that would likely be different in French-language newspapers. As Bilge explains, in France the position adopted on Islamic veils and headscarves by feminists and right-wing conservatives alike is that women's equality and French *laïcité* are threatened by the menace of political Islam, of which the Islamic veil or headscarf is representative (2010,15). There, to be against the banning of the hijab would mean that one was against gender equality, *as well as* against the integration of Muslims (Bilge 2010, 15). In the French context, what Muslim women have to say about veiling is considered largely irrelevant, meaning that interpretations of the veil remain relatively static, either in content, or in terms of voice (Bilge 2010, 15).

The narrative in Québec is different in that the emergence of the first series of hijab-related crises occurred at a time when the confessional or religious school system was still

⁴⁷ This is not to say that these dynamics are not apparent in many founding national mythologies, but there is a specificity here worth noting.

⁴⁸ It is important to remember here that this narrative of exceptionality is being crafted by an English-language daily in Montreal.

in place making discussions of secularity take on a distinctly different flavour in Québec. Moreover, the continual productive ambiguity around Québec identity and its associated values means that the veil itself and what it represents is subject to not only more contested meanings, but that the nature of its threat may shift slightly as the narrative of Québec identity does as well. As the effort to formally articulate a set of Québec values gathers momentum in the latter part of the 25 year period, one would theoretically imagine less room for negotiation of the meaning of Islamic veils or headscarves, yet this trend can neither be confirmed nor disconfirmed, perhaps, in part due to the province's commitment to interculturalism.

However, within this narrative that distinguishes Québec from France is a particularly important erasure. Block reports that the situation in Québec is different than in France, because France is marked by a conservative movement banning hijabs, as well as by anti-Muslim racism – in contrast, in Québec, the problem is characterized as one of denominational schools (1994, B1). This conceptualization is meaningful because, for all the shifts in meaning that the veil undergoes in this 25 year period, one key constant is that the racism or Islamophobia underscoring the anxiety over Muslim women who veil is consistently submerged, a point to which I will return to later.

In addition to the distinction made between Québec and France, over the 25 year period, articles and editorials in *The Gazette* consistently posit Québec exceptionalism as being one in which French Québec (read: white) is exceptionally intolerant, xenophobic, ignorant or inexperienced at dealing with 'diversity' *as compared to English Canada* and the Anglophone Québec population. This in itself is extremely productive in terms of generating a narrative of legitimacy in which English Canada, the finely honed colonizer, is naturalized

as benevolent, tolerant and welcoming.⁴⁹ Part of the explanation provided is that this distinction can be located in the historical legacy of Bill 101 wherein tens of thousands of “newcomers” were introduced into schools that had hitherto been the realm of “pure laine French Canadians” (Norris 1997, A16). Where Anglophone Québec had experience absorbing the vast majority of post-war immigrants, Francophone Québec (read: White) was not prepared for the sudden “cultural changes” (Norris 1997, A16). Similarly, with respect to the *Multani* case, Macpherson asks, “what is it about either ‘our’ Sikhs or their fellow pupils that makes the kirpan more of a threat to safety in Québec schools than elsewhere” (Macpherson 2007, B7)?

Four years later, the distinctiveness of the Québec situation is remarked upon again: “...Québec is the only province that has refused to find a compromise, even with the help of prior experiences of other provinces. Ours is the only provincial government that has gone to court in support of an absolute ban on the kirpan in the schools after abdicating its responsibility to exercise political leadership in search of a negotiated compromise” (Macpherson 2006, B7). And, with the reasonable accommodation crisis in full swing, Macpherson describes how the public hearings held in English in Montreal are tangibly different than those held in French elsewhere (MacPherson 2007, B7). According to MacPherson, anglophones do not seem to understand why there is an accommodation crisis.

Although widely criticized as methodologically flawed, the exceptionality of Québec is further remarked upon when the results of a 2007 Leger Marketing survey widely report

⁴⁹ See for example Elke Winter, 2011, *Us, Them, and Others: Pluralism and National Identity in Diverse Societies*, University of Toronto Press. Winter discusses the exclusion of Québec, and its framing as non-multiculturalism, in the English Canadian press. While beyond the scope of this particular paper, conceptions of exceptionalism are also found in narratives that distinguish Québec’s model of diversity management (interculturalism) from the Canadian state’s model (multiculturalism). Based on the articles yielded in this search of *The Gazette*, this narrative does not receive much attention in this English daily.

that 59% of Québécois self-identify as racist (Macpherson 2007, A21). Continuing this trend, Branswell reports that the percentage of English-language schools that received requests for accommodations for reasons of diversity was two times greater than that of French-language schools; English-language schools were also more likely to make changes without receiving requests (2008, A6). The subtext here is one in which controversies over reasonable accommodations are not arising in, or being reported as arising in English-language schools.

The lesson that seems to be conveyed here is that traditions of diversity are better established amongst English speakers in Québec, and that there is something possibly inherent to Québec nationalism that is intolerant or xenophobic. It is important to note however the ambiguities in language with reference to Anglophone Québécois or English-speaking Québécois. Whereas the terms *pure laine* Québécois, *Québécois de souche* or 'old stock' Québécois clearly delineate the privileges of whiteness without naming it as such, it is not clear who is being referenced by the descriptor Anglophone Québécois, English-speaking Québécois, or Anglophone Québec. This ambiguity is important because it functions to erase power differentials amongst this amorphous language-based group. While this narrative is sometimes challenged (See Spector 2007, A19), for those racialized and religious minorities that find themselves similarly marginalized within the bounds of English-speaking Québec, this becomes a powerfully disempowering narrative in that it continually re-establishes that things are 'okay'.

Without a doubt, however, the most dominant thread of exception that emerges in the lead-up to the 1995 sovereignty referendum and stays at the surface for the entire 25-year period is the idea that there is something exceptional about Québec's trajectory as a

nation that explains the hijab debate. For example, the editor in chief of *Relations* (a French Québec monthly) suggests that the hijab debate is deeply connected to the unfinished debate of the Quiet Revolution; here Québec society is in a transition towards women's equality and a separation of church and state (Block 1995, A3). Or, in 1994, François Lemieux, then head of the Société Saint-Jean-Baptiste, described wearing an Islamic head scarf as an "odious symbol of subordination", stating that it was incompatible with the values of Québec: "It's not compatible with our project" (Norris 1994, A4). The issue of transitioning from a deeply religious society to a resolutely secular one is also referenced as the context for the controversy over the *Multani* case (Editorial 2005, A24).

This narrative is important because it accomplishes a number of things. The suggestion is that Québécois are living in exceptional times. In "Debate is a by-product of Québec's past", the reasonable accommodation crisis, characterized as a loss of 'equilibrium', is contextualized in the "seismic shocks of the 1960s and 1970s" (Editorial 2007, B6). Critical to the analysis here is that the exceptionalism of Québec stands in contrast with the rest of Canada in that Québécois have "earned their uncertainty" (Editorial 2007, B6). Or, in the words of Pauline Marois, leader of the Parti Québécois, Québécois should not be "Afraid to seem intolerant" (Mapherson 2007, A15). While challenged by Lotayef who remarks that fear of survival cannot be harnessed as a rationale to treat people differently or give people different rights (2007, A21), this narrative is important because it provides legitimacy to racism, xenophobia or Islamophobia by formally normalizing it through the characterization of Québec as a victim. In doing this, the ways in which the project of nation itself, be it inside or outside of Québec, benefits from power over racialized minorities is erased. For the citizen insider-outsider that is the target of these discourses, the promise is that once Québec

gets where it is going (be it sovereignty or cultural security), Québécois will exhibit more tolerance and things will be better for everyone. Here we see the presumptive narrative of linear progress that has historically belied the actual experiences of those who are not the subjects upon which the liberal citizenship trajectory is based.

Racism as exceptional ☞

During the study period, racism is depoliticized and positioned as an exception. Four key strategies are used to position racism as an exception: 1) a stress on rules and procedures; 2) the inversion of power; 3) the characterization of racism as unintentional and attitudinal, and; 4) the dehistoricizing of racism.

First, across the 25 year period studied, an appeal to the supposed neutrality of rules and procedures can be identified as a constant. There are two main strategies that get rolled into this: 1) a stress on formal equality, and; 2) the framing of the issue as being a conflict between the host society (White and Christian Québec) and its guests (Muslim women and men). For example, for Justice Alary, the eviction of Wafaa Moussiyne from the courtroom for wearing her hijab was about courtroom decorum - nothing more. This was also the case for Émilie Ouimet, as well as for Dan Balli, wherein the nun in charge of the school stated that the school would not accept any derogation from the uniform, and that the girl's expulsion was simply about the uniform (Block 1994, A3).⁵⁰ The appeal to the formal application of rules and procedures is also clearly evident in the series of sports-related hijab cases. And, the inclination towards characterizing inaction as neutrality can be located in the reticence of governmental officials, (i.e. then Cultural Communities minister, Bernard Landry) to act in

⁵⁰ Leclerc challenges this reasoning suggesting that we cannot prolong intolerance under the guise of neutrality (1994, B3).

any capacity on the issue of the hijab. Moreover, when the issue reaches the domain of private schools, a discourse of entitlement to make whichever rules one wants emerges strongly (Boghdady 2003, A22).

With each set of rules contextualized within a specific institutional milieu, the power of the appeal to rules is that it desystematizes and depoliticizes the fact that all of these women are essentially being evicted from the public realm for not having integrated properly. But the moral weight, or mobilizing weight, behind many of these appeals to rules is most adequately expressed in the words of Alary in the Moussiyne case: “When one goes to Rome, one lives like the Romans”.⁵¹

Second, the characterization of racism as being exceptional is also accomplished through a narrative in which power is consistently inverted and it is Muslims that are demanding to be treated as exceptional. In different contexts this is articulated as Muslims taking advantage of the law through the ironic suggestion that with accommodations there are now two sets of law for different people. Here the repetitive statement that ‘newcomers’ are asking to be treated special disconnects the accommodations from the reality that they are intended to rectify discrimination or inequality, as well as to allow for minority groups to function as fully integrated citizens. ADQ leader, Mario Dumont was particularly skilled in this exercise, suggesting that it is time to stop “‘getting down on our knees’ to the demands of certain minorities” (Jedwab 2007, B7). In a LTE entitled “It’s about promoting a culture of victimization”, a reader responds to the issue of banning young girls who wear hijabs on soccer fields by suggesting that this is not about reasonable accommodation or religious

⁵¹ This presumption that rules are to be adhered to, especially when you are a guest in ‘our’ country surfaces over and over again, particularly in published LTEs.

tolerance, but about publicity and the promotion of a culture of victimization (Elberg 2007, A20). This becomes particularly significant for marginalized, racialized and dissident citizens who are both subject to rules in terms of adherence, but not entitled to claim the rights associated with rules. Reacting to this position, Eliadis writes that “immigrants and minority groups shouldn’t have to ask timidly for their rights” (2007, A25).

The third way in which the exceptionality of racism is reinforced across the entire 25-year study period is that racism is treated as not systemically entrenched, but as intentional or attitudinal. The presumption here of course is that ‘real’ racism is intentional and motivated. For example, the head of the Canadian Council of Muslim Women, Alia Hogben, described the soccer ruling in 2007 as a lack of judgement (Heinrich 2007, A6). In a 2007 editorial, the accommodation crisis is described as a problem based on too little information and preconceptions (A20). The editorial goes onto to suggest, however, that the referee’s ruling to expel Azzy Mansour from the soccer game is “ridiculous”, but when put in the context of reasonable accommodation, takes on “distinctly uncomfortable overtones”. In September 2007, governor general Michaëlle Jean describes racism as situated within ignorance and misunderstandings; she simultaneously acknowledges that Muslim women in Canada are amongst some of the most educated women in the country, yet still have exceptional difficulty in finding employment (Thompson 2007, A1).

Part of the work being done here is related to tolerance as a strategy of governance that recodes “inequality, subordination, marginalization and social conflict...as personal and individual, on the one hand, or as natural, religious, or cultural on the other” (Brown 2006, 15). For example, in 1994, Québec’s largest federation of teacher’s union (CEQ) urged the province to provide an intercultural relations course in all schools. The Chairman of the CEQ

described tolerance as a “two-way street”, in which religious communities understand that certain types of dress can raise questions: “...the wearing of the veil is perceived by certain Québécois, I would, above all, say by certain female Québécois, as an expression of a well-defined place for women – women whose lives do not completely conform to the perspective of equality we’re looking for” (Mennie and Block 1994, A3). Interestingly this strategy echoes the voices of mainstream liberal theorists of differentiated citizenship, wherein racialized processes are recoded as cultural, and political and economic vocabularies are replaced by “emotional and personal” ones (Brown 2006, 15). Quite clearly in the Québec context, the citizenship narrative is told as a story of identity, culture and nationalism, through which all crises and their potential resolutions are located and defined.⁵² In addition, the process associated with the reasonable accommodation commission also becomes important here as the public forums become public confessionals wherein accommodation stories are personal narratives of disparate events, not the story of a society that cannot ‘neutralize’ the space of integration. Consequently, given that the capacity for a marginalized, racialized and/or dissident citizen to move into the public space is key to their experience as citizens, the recoding and depoliticization of that space becomes profoundly disempowering for those needing to make political claims.

Fourth, in addition to desystematizing racism, part of the process of decontextualization involves taking racism ‘out’ of history. For example, in 2003, despite the history of hijab controversies in the province of Québec as well as the re-emergence of conflict on this issue, Ginette L’Heureux of the QHRC suggests that the Waseem case is

⁵² To be clear, the sovereignty movement did have a distinct class analysis, however the popular rendering of the movement has tended to focus on identity.

exceptional and that there has been a lot of progress on the issue (Heinrich 2003, A3). Also in 2003, in her assessment of the hijab controversy, Diane Guilbault from the Québec Council for the Status of Women suggests that hijabs are now so common in Montreal that it is no longer an issue (Heinrich 2003, A3). She further observes that the “hijab impulse will pass”, meaning that by the end of the school year, she has noticed that some girls are no longer wearing them (Heinrich 2003, A3). Erasing the historical context and proclaiming the controversy over, Guilbault’s narrative also provides only one possible benign reading of what this mini story about integration is about. Or, in response to the issue arising at the Trudeau airport where a woman was unnecessarily asked to remove her hijab, the spokesperson for Citizenship and Immigration Canada (CIC) states that the incident seemed to be “limited in scope” and did not represent CIC policy (Stastna 2004, A7). This assessment was made despite the fact that *The Gazette* reports that another five women had made similar complaints in the past several months (Stastna 2004, A7). And, despite the storm of controversy accompanying the accommodation cases in 2006 and 2007, as well as his own recognition of the ADQ’s xenophobic election strategy, Premier Jean Charest described the case of Hérouxville as an exception, borne simply out of fear (Johnston 2007, A6). Even before the reasonable accommodation debate takes off, Bagnall pronounces that while the hijab implicated issues of church and state, and was criticized as “an affront to Western, feminist values of equality”, now “no one in Montreal gives hijabs a second glance” (2002, B3). According to Bagnall, Montreal in 2002 is a more accepting and multicultural place than it was in 1994 (2002, B3).

There is, however, complexity to this treatment of racism as exceptional. In some instances, it clearly appears that the strategy is not one of submerging racism, but rather a

strategy to purposefully defuse the situation. As a strategy however, issues of voice make this a complicated one to read because the treatment of racism as exceptional emerges not only in the narratives of those benefiting from White, Christian privilege, but also from those who are not privy to that privilege. Two points can be made here that have implications for marginalized, racialized and/or dissident citizens. First, quite obviously, there is a consequence to this kind of strategy, wherein the erasure of the embeddedness and meaning of the experiences of racism of those who live it produces a particular kind of national space that is, in part, devoid of their presence. Second, voice clearly matters. When initiated by racialized or religious minorities, the strategy to defuse, and willingness to endure the consequences of erasure, may in many cases be an adaptation that attempts to reorient unwanted attention and surveillance.

Exception and Muslim Women ∞

The last area where we consistently see the concept of the exception working is in the production of the Muslim female citizen. Again, the thread of exception running through here is complicated and intertwines with questions of voice given that there are different categories of exceptional subjectivity that are cast. What is common between all these categories is that they are caricatures of the kinds of 'identities' that the state can conceptually govern. The 'best' version of the *exceptional* Muslim woman challenges many of the characteristics of her negatively perceived counterpart who is veiled, submissive, exceedingly devout yet stifled by religion, a victim, mired in a backwards community and culture that oppresses her, incapable of agency, a participant in her own oppression, monolithic, and wholly dependent. While in many ways the 'best' version of the *exceptional* Muslim woman challenges these characteristics, her *recognized* possibilities are still very

much contained within particular strategies to manage 'diversity'. She cannot be too powerful, too political, too provocative, too participatory, and too engaged because both versions of Muslim women are presumed to be gateways to a profoundly illiberal way of life that must remain off 'our' shores.

For example, the first exceptional Muslim woman that we meet is Fatima Houda-Pepin, a feminist who founded the *Centre Maghrebin de Recherche et d'Information* (an ethnic association, academic centre, social agency, and pressure group) (Shepherd, 1988, J8).⁵³ Much of this article focuses on her analysis of Western media and the stereotypes of Muslim women. Her perspective is not characterized as a comprehensive and well developed political analysis, but rather as her own personal issues: she's "irritated", she "accuses" and she has "personal sore points". But, she is *The Gazette's* first mention of the veil in the Canadian context, she is safe or rendered relatively palatable, and she challenges the stereotype of submission. In our encounter with another exceptional Muslim woman, Yusra Siddiquee, the article describes how she is balancing career with her religious beliefs (Shepherd 1999, D7). Revealingly, Shepherd writes here that this woman is negotiating the challenge of being Muslim in the corporate world, as well as integrating within the Canadian Muslim community as a professional woman, leading to an obviously gendered and racialized framing that makes important assumptions about which realms are available to which types of people (1999, D7).

What is important to note here is that in generating these categories of exceptionality, this work is productive and disciplinary. One can choose to be the properly integrated

⁵³ Houda-Pepin would go on to serve as a member of the National Assembly of Quebec between 1994 and 2014 for the Quebec Liberal Party.

Muslim woman, and in doing so reap the rewards of partial insider status. The alternative is extremely undesirable, particularly if one is resisting in ways that are deemed ungovernable. We learn this lesson very early on in the story of a KENZA Noufsi, a Muslim woman who, at the time, had immigrated from Morocco six years prior (Parks 1988, D6). In an article entitled “If I cry all the time, I’m going to die”, Noufsi is characterized as a proud and at times inflexible Muslim woman: “I don’t want to change my name, I don’t want to change my religion, I don’t want to change anything to be accepted” (Parks 1988, D6). Yet, so the story goes, her unwillingness to change has cost her; her life is a constant struggle, she is mistreated by other immigrants, she cannot find work, and her privilege of being a lawyer from a prosperous upper-class family in Morocco does not follow her. Hers is the hard life of a Muslim woman not striving for the *right* kind of exceptionality, and the morality lesson in the article is clearly delivered in Noufsi’s own words: “If I want to stand up in this society, I have to pay the price...And I’m ready to pay it” (Parks 1988, D6).

But beyond this disciplinary lesson, while the characterization of the properly integrated Muslim woman as exceptional creates a norm from which she departs, this ‘normal’ Muslim woman and this exceptional Muslim woman share a number of things in common. First, in the Canadian context, both seem to border on the edge of potentialities wherein they are identified as risky citizens. Without constant vigilance, they are always on the cusp of regression. Second, despite a lived reality which may be different, both categories of citizens are understood to have an extremely narrow political reality, and in this case, it is considered to be wholly contained by their hijabs, niqabs or burqa. Third, both categories of citizens are characterized as unidimensional, a line of thought with deep connections to the rationale informing Premier Jean Charest’s attempt to respond to gender equality concerns

by amending the Québec Charter to institutionalize a pyramid of rights wherein gender equality rights would take precedent over *all* other rights. In this very real sense then, both of these categories of Muslim women are not just exceptional, but become actual exceptions whose potentially institutionalized insider-outsider status might lead them to fall through gaping citizenship cracks.

2.3.2 Governing through crisis and security

As described in the previous chapter, mainstream Canadian citizenship analyses tend to focus on conceptions of crisis related to nationalism and ‘soul-searching’ around identity. Broader conceptions of in/security rarely receive sustained attention. However, if we adopt analysis that centers the ways in which the production of, and insistence on insecurity or the existential threat is integral to how citizenship governs and regulates, interesting observations can be made about Muslim women across this twenty five year period. That security is performative, elastic and multidimensional, yet simultaneously rooted in intersecting systems of oppression, is meaningful given security’s intimate link with citizenship. Yet, mainstream liberal multicultural citizenship theory has not simply excluded security, but, as Dhamoon suggests, has tended to present “security and multiculturalism as oppositional” (Dhamoon 2010, 256). Instead, as Dhamoon (2010) notes, liberal multiculturalism is better described as a mechanism of security and a way of regulating difference, a process referred to as “multicultural securitization” (256). In this sense, liberal multiculturalism constitutes mechanisms of security; it “secures meanings about the nation and belonging” (Dhamoon 2010, 256-257).

If securitization is a way through which not simply multiculturalism but citizenship itself regulates and is regulated, narrow conceptions of security will invariably constrain

how we think about temporal changes to citizenship in Canada. Whereas the assumption might be that security discourses might only or uniquely be implicated in the governance of citizens in the post-September 11 2001 context, in reality we see broad and varied dimensions of security from the beginning of the study period. With that said, this analysis shows a progressive securitization around equality or accommodation-type issues, as well as shifts in where the locus of insecurity lies and who is deemed to be at risk. There are three main sites in which the process of securitization figures prominently: 1) Muslim women who wear the hijab, niqab or burqa; 2) institutions, and; 3) discourses of culture and gender equality. Securitization in all three of these zones is deeply intertwined and occurs simultaneously.

Securitizing Muslim women ∞

An appropriate starting point is an article by Skenazy entitled “Those 9/11 fears come rolling back” wherein she describes a nightmare of hers: “What was the lady in the burqa doing in my dining room? Who was that bearded guy with her? Why were they circling closer and closer? What in God’s name was going on? Oh, probably just the same thing that’s been going on in your bed, too, these past few nights: a nice, juicy nightmare about terrorism” (2002, B3). Skenazy’s nightmare is important in that during the study period, conceptions of in/security are rarely defined by Muslim women. Moreover, when the focus of in/security is the Muslim woman who wears the hijab, niqab or burqa, her presumed experience of insecurity is entirely disconnected from the complex racialized security regime implemented after September 11 2001. Her insecurity is entirely disconnected from the insecurity of Muslim men who are targeted by the security regime, and the whole of her in/security experience is contained quite narrowly by this issue of how she dresses. These frames are

particularly important because they also suggest no relationship of solidarity between Muslim men and Muslim women, and they underestimate the complex and multidimensional ways in which processes of securitization are embedded in how we govern through citizenship.⁵⁴

Looking at this 25 year period, there are a number of different security permutations that operate in coordination with each other: Muslim women are endangered by Islam, fundamentalism and Muslim men; Muslim women are a danger to themselves; Muslim women are a danger to the nation or 'us', and; Muslim women are a danger to Western women.

While the narrative around the security of Muslim women is multidimensional, a general trend is discernable over this period. Overall, there is a broadening and shift in security discourses applied to Muslim women who wear some type of Islamic veil. In the early period, the discourse centers most clearly on 'the Muslim woman' as passive, submissive and threatened by her culture, her religion and Muslim men. While this discourse does not disappear fully, increasingly the movement is away from the supposed security of Muslim women, to a concern that Muslim women are a threat to themselves and to the nation. In this shift, as more formalized and ethnically defined narratives of nation take hold, the veil itself takes on a particular kind of multi-dimensionality, at times signalling submission, but increasingly signalling provocation, an aggressive political agenda, refusal

⁵⁴ One notable exception is an article written by Basem Boshra which discusses racial profiling and the problematic way in which the words "Arab-looking" have entered into the post-9/11 lexicon. Boshra suggests that in the post-9/11 context in which Arabs, Muslims and/or other "brown" people are being targeted, the tendency to draw a distinction between these three groups of people problematically positions these assaults and attacks as issues of misidentification. Boshra explicitly notes here that Muslim women wearing a hijab cannot 'pass' or 'fly under the radar' (Basem Boshra, "Chilling signs of racist roots", *Gazette (Montreal)*, October 1, 2001, A1).

to integrate, and ultimately 'intolerance' towards the "host" society. While to some degree the linkages between the veil, hostility, deception and provocation are present since the beginning of the study period, the threat comes to be read more explicitly through a security lens in the wake of September 11, 2001.

In the case of Émilie Ouimet and her expulsion from public school for wearing the hijab, the principal equates the hijab with neo-Nazi insignia and describes both as signs that could cause aggression in the face of the "greater harmony" the school's strict dress code is trying to promote (Wells 1994, A13). While this particular linkage is unique in the study period, this kind of connection between the hijab and a host of patriarchal and oppressive symbols and practices is consistently present throughout the period. Moreover, in terms of discourses of in/security, the school's policy is notable in that the restriction is premised on the notion that students are not allowed to 'marginalize themselves'.⁵⁵ Here, the root of the 'dysfunction', or the source of the anxiety or threat is located in Ouimet herself, *not* in peoples' reactions to her.⁵⁶

This issue of the security threat being located in the 'Other', hence the 'Other' being his/her own source of in/security, is not restricted to Muslim women. Reacting to the story of Gaby Lyuonga Komba, a man who was refused permission to march in the formal part of the *Fête Nationale* parade because his "African garb" and drum would not be "in keeping with

⁵⁵ We see resistance to this construction in a 1993 article regarding the Muslim School of Montreal. Here, the principal school states: "We don't believe in isolating ourselves...we believe in preserving our identity." (Riga 1993, G1)

⁵⁶ Significantly, in the QHRC's 1995 study referenced earlier in this paper, the commission clarifies that if the hijab does marginalize students then it is the duty of the school to inculcate a respect for human rights. This narrative is also seen in coverage of international events. For example, in an article about '*l'affaire du foulard*' in France in 1989, the three Muslim girls are described as the cause of the controversy in an article entitled "Three girls *create* firestorm in France; Education officials, Muslim leaders clash over religion in schools." (Ulbrich 1989, B1).

the theme”, Aubin chastises the racism of this exclusion, but goes on to write: “...this is not to say the government should ignore the backlash and accept many more immigrants now. No one wants more skinhead agitation, more incidents like the one in Hochelaga Maisonneuve...when whites drove out black neighbours” (1995, B2). Again, the solution here lies in correcting the source of the ‘problem’ – the flow of immigrants, not the reaction to immigration.

In the case of Muslim girls who wear the hijab, this process of ongoing correction or discipline threatens with the consequence of eviction or exclusion. This is a profoundly powerful lesson to learn because it suggests that presence alone is reason for eviction. Moreover, if the backlash is incorrectly presumed to be contained in the subject, the subject is profoundly disempowered because s/he cannot control the backlash, but may also be subject to the blame.

In a slightly different vein is the story of a female Saudi doctor doing her residency in Montreal who was attacked immediately following September 11, 2001. The response from the hospital was that female Muslim students would no longer be on call for nights (MacFarlane 2001, B6). While clearly this measure was inspired by the security concerns of and for Muslim female students, this particular resolution to ‘the problem’ once again partially frames it as one of presence. The alternate solution is that Muslim women are provided with security and supported in their efforts to function as full citizens. The former solution is one in which her security concerns are located in her presence, which ultimately requires that she is evicted once again from the public.

A similar narrative develops in the case of elections in Québec. When Québec’s chief electoral officer bowed to racist pressure and intimidation by unilaterally reversing his

decision that Muslim women wearing a niqab would not be required to show their face to vote, he stated that his concern was the “integrity and serenity of the electoral process” (Riga et al. 2007, A1). So, when election officials breathed a “sigh of relief” the day after the election and the headline read, “A veil of rain, not of women” (Macdonald 2007, B10) we see clearly that the security concerns are not about the interests of veiled Muslim women as active, engaged and present citizens.

The consequence of being identified as the source of the dysfunction, or the embodiment of the threat is not just the concretization of a profoundly racialized and gendered security discourse, but also one in which the target is evicted so that society can continue to function as per normal. In this sense, underscoring the diversity or pluralism welcomed in multicultural societies is the ongoing threat that as a marginalized, racialized and/or dissident citizen, you may be subject to eviction – temporary or otherwise - if your presence proves too disruptive, distracting or dangerous. Consequently, the citizen insider-outsider must function within a constant state of uncertainty or in/security, an uncertainty that can become particularly heightened when accompanied by government inaction that is recoded as neutrality.⁵⁷ This was the case in the QHRC’s extensive delay in releasing its

⁵⁷ For example, the day after the 9/11 terrorist attacks, Semenak et al. report on the dramatic increase in racist attacks against “Arabs”. Members of the community are described as asking for security but the police remark that they “have no control over comments made in the heat of the moment”; the official line is that “Montrealers in general have a good history of tolerance toward each other” but this masks the security concerns, the history of intolerance and racism and assumes that non-intervention is the way to go; presumes that there is something to be tolerated (Susan Semenak, Michelle Lalonde and Irwin Block, “Arabs brace for a backlash: Members of Middle Eastern communities prepare for the outrage of the intolerant”, *Gazette (Montreal)*, September 12, 2001, A13). In an article just over one week later, Paul Andre-Allard downplays the insecurity of Muslims, suggesting that the backlash against Muslims is limited given the lack of “registered complaints”. See Paul Andre-Allard, “Minority backlash exaggerated”, *Gazette (Montreal)*, September 30, 2001, A14.

report on the hijab issue in private schools, as well as in and Bernard Landry's reticence to act on behalf of the government in his capacity as Cultural Communities minister.⁵⁸

In addition, in the context of the racial state, it is important to keep in mind that discourses of security and threat are very clearly rooted in a deep set of assumptions around the racialized and gendered 'other'. This means that if it is not always made clear what the danger is or who is considered dangerous, the process of 'filling in the blanks' is deeply political. For example, in "Integration tough on students at first", Norris describes the racialized tensions accompanying the introduction of Bill 101 (1997, A16). Norris explains that the francophone students (read: White) felt "...threatened in their personal, social or collective identity'... which, in extreme cases, led to violence" (1997, A16). In the context of this article, the ambiguity surrounding the question of violence by whom and directed towards whom may often be presumed in such a way that the actual power dynamics are inverted.

We also see in this time period discussion of the rise of 'chilly' nationalism, but again with the same ambiguity apparent around power and racialization as discussed earlier. Commenting on the case of chilly nationalism in Québec, Yolande Geadah, a specialist in women's issues for the *Centre D'Étude Arabe Pour le Développement* makes the following ambiguous statement: "This is very dangerous and such a polarization only gives fundamentalist groups the chance to take as hostages members of their community who feel their primary identity is threatened" (Gazette (Montreal) 1994, A3). Here, while the assumption is that Geadah is referring to Islamic fundamentalism, it is not implausible that

⁵⁸ In some stories, this state of uncertainty is picked up on by commentators (See for example Nebenzahl 2001, F3).

she is talking about ADQ-type ethnic nationalism. Or, in the case of Najat Hapa, who was expelled from school for wearing a hijab but returned a day later after intervention by the QHRC, the principal stated that he had just wanted to exercise caution. It is never made clear, however, what the danger was, who was in jeopardy and why Hapa's presence was risky.

This kind of ambiguity is extremely powerful because when layered upon racialized discourses of threat and security, as well as discourses of exception, not only do the targets of security regimes shift, but the explanation of the shift is neither made clear, nor requested. In fact, as more traditional security lenses are applied, the ability to request explanation is increasingly frustrated by sovereign and disciplinary power exerted upon the marginalized, racialized and/or dissident citizen. For example, in 2001, Québec city passed a bylaw regarding headscarves and face masks during the Summit of the Americas meetings. Individuals wearing headscarves and face masks, including Muslim women could be stopped as a security measure, with the burden of proof resting on them. In this moment, the fact that some Muslim women wear an Islamic headscarf or veil takes them out of the realm of the victim, marks them as suspect or suspicious, and automatically subjects them to increased surveillance, and possible criminalization.

Securing institutions ∞

Another important site of securitization that undergoes shifts during this time period are institutions of the state and the ways in which they are characterized as in crisis. This issue of crisis definition directly implicates where crises are seen to originate from, as well as what kinds of resolutions are imagined. The Moussiyne case stands as a relatively important exception to the other controversies surrounding Muslim women who veil during this study period. Commentary on the eviction of Wafaa Moussiyne from Justice Richard

Alary's courtroom is notable in that there is a discernable trend in which commentators locate the roots of the crisis in a lack of 'tolerance', in the improper behaviour of judges, as well as in the inaction of the Québec government. Within these narratives, the integrity and the legitimacy of the legal system itself is at stake, given the realities of an unrepresentative judiciary (Norris 1994, A3), as well as the systemic inaction of the government in implementing cross-cultural training for judges (Norris 1993, A1). Adding to this, Chief Justice Antonio Lamer weighed in, stating that racist or sexist behaviour on the bench would not be tolerated (Bindman 1994, A1).

This case stands as distinctive because it is the institution that is in crisis not *because* of 'diversity'; rather the institution is in crisis because it cannot rise up to meet the needs of its 'diverse' legal subjects. The system perpetuates inequality, and this is the root of the dysfunction. Admittedly, the narrative here is largely focussed on attitudinal issues affecting the interpretation of the law, however, the attention paid to the issue of representation demonstrates some degree of concern with systemic inequality that would be absent in the periods to come. Moreover, it is important to note that there is also recognition here of a historical tendency for judges "to openly show disdain for *particular categories of citizens*, especially women" (Editorial 1994b, B2 – emphasis added).

In 1994, after the first series of controversies, Central de L'Enseignement du Québec (largest federation of teachers' union, chairman describes tolerance as a two way street - that religious communities have to understand that their dress can raise questions – but they were unable to give any statistics or examples of any students having asked to be exempt because of religious beliefs or of any Muslim pupil performing poorly because of fasting (Mennie and Block 1994, A3). In contrast, over 10 years later, when the Muslim Council of

Montreal called for an investigation into the delays of the QHRC's decision on Irene Waseem's eviction from a private school in Québec, the QHRC's inaction and seeming abdication of its outreach and educational role was framed as a concern by only some. For example, Almenyawawi comments that the abdication of the commission's statutory responsibility ultimately compromised the security of these women, "...[forcing] victims of racism and anti-Muslim discrimination to suffer emotionally psychologically, socially and indefinitely..." (Heinrich 2005, A9). Almenyawawi's comments are important because he exposes a larger trend wherein the security of Muslim women who wear an Islamic headscarf or veil is not only conceptualized quite narrowly, but is simply not framed as a meaningful.

Related, in the wake of the Waseem case, the crisis that emerged also comes to be framed as one relating to public and private schools, with the ultimate concern being that if the government acts on the QHRC opinion it might in fact damage the integrity of the private school system. In a September 25 2003 editorial, *The Gazette* writes that their "hope" is that the school will do the right thing, but that the decision on the hijab should remain with the school (A30). This shift in focus, to the crisis of the institution being caused by diversity is particularly important given that if we see institutions as reproducing the homogeneity of the state, the articulation of who is threatened, by whom and why is an indication of the strategies of governance of the state. So, if we think about Goldberg's notion of the racial state, when *The Gazette* articulates that the concern is that schools will lose their capacity to "discriminate" and that without those distinctions, all schools are identical (Editorial 2003, A30), a very clear message is sent regarding, at a minimum, the importance of designating difference as part of the governing strategy of the state.

Securitizing Culture and Equality ∞

Without a doubt, an enduring constant over the twenty-five year period studied is that culture is a security concern, gender equality is endangered by culture, and the identity of the nation is in constant crisis or constantly under threat.

In thinking of mainstream citizenship discourses and practices in Canada, it is important to note the centrality of culture and identity. With multiculturalism embedded at the core of the Canadian citizenship story, culture has become *the* lens through which 'difference' or 'diversity' is both understood, negotiated and governed. And, despite the resistance to the narrative of multiculturalism in Québec, there is no question that the privileging of culture in 'diversity' management strategies is similarly entrenched in the province. In fact, much of the mainstream Canadian citizenship literature responds precisely to this narrative of cultural and linguistic tension between the French and the English (Nath 2011).

As has been addressed by others, there are consequences to the centrality placed upon culture given that a host of other processes of identification and categories of identity become subsumed within it. Of particular interest here is the subsuming of race, racism and racialization. Referring to this very trend, P.A. Tanguieff employs the concept of differentialist racism to describe a process wherein racism focuses on cultural, rather than biological differences, and essentialism constructs an essential cultural difference wherein cultures are distinct, homogenous, static and bordered (Joseph et al. 2008, 232-233). Part of this process of essentializing involves establishing a hierarchy of culture based on these essentialized. Moreover, the culturalization of politics and the culturalization of race

depoliticizes how difference is named, and the ways in which power and dominance are secured.

Razack describes that there is an extremely close connection between assertions of cultural difference and racism (2008, 88). Particularly critical is that when referencing Arab and/or Muslim women, this close connection between cultural difference and racism is deeply rooted in Orientalist frames. Consequently, the “...smallest reference to cultural differences between European majority and Third World peoples (Muslims in particular) triggers an instant chain of associations (the veil, genital mutilation, arranged marriages) and ends with the declared superiority of European culture” (Razack 2008, 88). In addition, this narrative of identity and culture is characterized as a clash, wherein “...the West, Jews included, are caught up in a violent clash with the Islamic world; the clash is cultural in origin; Islam is everything the West is not. Furthermore, as fatally pre-modern, tribal, non-democratic, and religious, the barbarism of Islam is principally evident in the treatment of women in Muslim communities.” (Razack 2008, 84). The message here is that of inevitable conflict between some cultures and the equality rights of women; put differently, the conflict becomes one between feminism and the recognition of minority group rights, even when those group rights are claimed, and limited, on liberal grounds (Abu-Laban 2002, 464).

For example, in the coverage in *The Gazette*, Islamophobic narratives sit in constant tension with a discourse not simply about equality, but a disciplinary discourse about a particular version of equality and morality. Block suggests for example that because our society is one in which Muslims are often portrayed as fundamentalists and terrorists, the hijab debate has touched a raw nerve, raising questions of freedom, tolerance and the

equality of women in a multicultural society (1994, B1). It is the opening morality play to this article that is of interest here and worth citing at length:

A young Algerian woman – emancipated, educated, enthusiastic – falls in love with a French doctor working in her country. Shocked, her parents pull her out of school and send her to live with her grandmother in the countryside. She must now wear the traditional Muslim head scarf called a hijab and submit to primitive attempts to exorcise her “decadent” Western ways. She is taken to the desert, where surrounded by ululating women in the moonlight, the exorcist slits a chicken’s throat to purify her. The rather moving story of Leila was shown on the French television Network TV-5...a film highlighting the conflict between religious tradition and modern Western values that is raging through the Muslim world, France and even Montreal. Indeed, Montreal has its own real-life Leila, Algerian-born Leila Salem...the conflict between two very different sets of values has emerged here... (Block 1994, B1).

The clincher in this story is that the problem is no longer remote; it, or she has landed, and now we need to be very concerned and cautious.⁵⁹

In fact, over the 25 year period, there is no shortage of articles or letters to the editor (LTE) that reproduce this presumed clash between Islam and gender equality. For example, in a LTE, Ford rightfully condemns a decision wherein a 29 year old male had his jail sentence of nine months reduced to nine months of community service because the judge described the girl that he sexually assaulted from the age of 13 to 16 as being a willing participant who was more sophisticated than many her age (1997, B6). Ford goes on to say that this blame the victim mentality “...perpetuates the myth that men cannot be held responsible for their animal passions, because they are driven to whatever by the actions, dress, decorum, and past history of girls and women. It is the kind of thinking that excuses chadors and veils and

⁵⁹ These same concerns are evident in the response to CBC reporter, Céline Galipeau, wearing a veil while reporting from Pakistan. She is roundly criticized by readers for doing so but the paper reassures its readers that Galipeau does not like wearing the scarf (Gazette 2001, B2).

hijabs; harems and purdah and chastity belts. It is ludicrous and unacceptable in modern society..." (1997, B6). According to Ford, *all* of these practices (in all contexts), are equivalent to each other, and can all be described as "heinous". Even in pieces not overtly condemning Islam, the Orientalist framing is clear. In a largely 'favourable' interview with a Muslim scholar, the topics covered in this 1998 article include: terrorism, religious clitorodectomy, polygamy, the hijab, fornication, chastity and adultery (Shepherd 1998, 17).

Stepping back, there are political consequences to this type of framing, wherein culture and gender equality are deemed fundamentally incompatible. This single-issue approach to politics denies Muslim women a fully multidimensional political subjectivity (Bilge 2010, 10). The version of agency offered here is content-driven, and the content is not determined by the Muslim women who chose to wear a hijab, niqab or burqa, nor is the meaning of the veil or headscarf subject to change. For example, McBride dismisses the voice of a young Muslim woman who suggests that the Koran teaches equality as well as the lesson of not being judged by gender, beauty, wealth or privilege (1994, A2). For McBride, this cannot be true because Muslim men do not have to cover-up, *and* because contrary to the young woman's perspective, Western women do not think they are displaying themselves (1994, A2)⁶⁰. The inference here is that if Western women do not intend for their practices or behaviours to be interpreted in a certain way, this is meaningful; the intentions of Muslim women are not. Or, in Young's piece about Muslim women who wear the niqab, she suggests

⁶⁰ Early on, some of these assumptions are challenged. For example, in an article entitled "It's bad news every day for women", the author connects random acts of violence, the murders at l'École Polytechnique in Montreal, a recent stalking incident, and the case of Moussiyne (December 10 1993). The key here is that Moussiyne's similarity with these other events is not based on her wearing a hijab – rather, it is her denial of her right to wear the hijab that invokes solidarity.

that people who do not agree with her perspective on the niqab are engaging in a “rhetorical sleight of hand” and victims of internalized misogyny (2006, B3).

Moreover, from an intersectional perspective, the exclusive focus on minority gender relations conceals a host of oppressions that occur along various majority/minority axes (Bilge 2011, 18). Consequently, in devising ‘solutions’ to the supposed crisis and in considering the role of the state as the supposed provider of security, the focus on intra-group relations masks a situation in which the state has often been the source of in/security for marginalized, racialized and/or dissident citizens.

2.3.4 Governing Dissent

As explained earlier, mainstream Canadian citizenship scholarship has tended to focus on discourses of passive belonging, as opposed to governmental belonging meaning that this body of scholarship has spent relatively little time considering how different strategies of belonging affect who is able to dissent, or even more broadly, the kinds of activities a citizen is ‘supposed to’ be engaged in. This axis of analysis becomes an important consideration when trying to describe the regulation of Canadian Muslim women who veil over the past 25 years.

First, in looking through the texts, over the entire 25 year period, Muslim women who wear an Islamic veil or headscarf have generally been interpellated into the political realm if their clothing causes controversy. While these women may have complicated, overlapping and shifting rationales for their choice of dress, this temporary invitation into the political has been extended to them as objects of investigation. So, just as the in/security of Muslim women who veil is defined narrowly by dominant voices, so too are her acknowledged contributions and presupposed relevance as a citizen. This point is illustrated quite vividly

in an article regarding the First Intifada and the place of Palestinian women: “A woman’s freedom – as symbolized by being able to choose her dress in the morning – became an early and easy casualty of the intifada.” (Schemo 1991, A1).⁶¹

One key assumption about Canadian Muslim women is that not only are they considered static subjects, but also their voice is expected to be available primarily for explanation. For example, in their interrogation of Wafaa Moussiyne by the Québec Judicial Council, the Councils state that it was impossible for them to believe that wearing the hijab was part of Moussiyne’s religious convictions given that she had appeared in court twice before without it (Baker 1994, A1). Not only is Moussiyne subject to a devotional litmus test, but unlike others, her religious devotion must not only remain constant, but must be demonstrably so. If her public display is insufficient, those in a position to judge will be inclined to think that some type of deception is involved.⁶²

In a related sense, a trend that emerges early on and remains present throughout the Bouchard-Taylor commission is that when Muslim women who veil are invited into the conversation, they are invited in with an expectation of what they *should* know. While this becomes a complex negotiation between claiming voice, being burdened with voice, and being heard, a consistent theme over the period is that Muslim women continually rearticulate and explain the myriad of reasons why they may, or may not wear a hijab, niqab or burqa. For example, in an article about clothing and teenage girls, a young 15-year Muslim girl explains, “When you wear the hijab, people come up and ask questions. They expect you

⁶¹ The paper offers at least a slightly more nuanced look in an article less than one week later, highlighting that in the context of Israel/Palestine, women have varying reasons for choosing to wear Islamic coverings (*The Gazette* 1991, B5)

⁶² On this front the Moussiyne case is unique in this time period because it is her lack of devoutness that is problematic. Quite quickly, this narrative shifts in subsequent cases where the devoutness associated with a Muslim woman wearing a hijab, niqab or burqa becomes threatening.

to know about your religion" (Warwick 1994, C1). While this may in many contexts be a relatively benign question, this assumption is interesting given that it presumes, to some degree, that for Muslim girls to make a 'real' choice, they must know everything about their religion before they even dare don a hijab. Not only does this suggest that there is not a learning or evolving thought-process involved in Islam, as there is with other religions, but that there is a certain unidimensionality in voice and description that is expected of adherents. Moreover, for Muslim women, part of the underlying assumption here is that their relationship to their faith cannot change, *unless* it means rejecting it.

The requirement to explain appears again in an article by Qadeer, who describes how when walking down a street in Montreal, he did "a double-take" when he saw two women wearing burqas (1999, B3). Qadeer explains how in the 1950s, the burqa was a symbol of progress and liberation in Pakistan but that now burqas represent the withdrawal from public space. For Qadeer, it is meaningful that the "Muslim community" has been silent on the issue of burqas, and he goes onto suggest a number of possible reasons why. What is most curious about his piece is the underlying assumption that 'the community' should have to explain. Were 'they' to attempt an explanation, in what context would it be and to what end? The burden of explanation and justification is similarly illustrated in a piece by Bromstein who writes that while contemplating her own racism in the wake of September 11 while riding on the bus one day, a woman wearing a hijab caught her eye, becoming her cue that this woman "must feel differently" (2001, A4). The article becomes an exposé of Bromstein's desire to ask this woman all of her questions about 9/11, terrorism, racism, and dying for Islam.

A corollary trend in this 25 year period is that there are certain types of palatable resistance that are available to marginalized, racialized and/or dissident citizens. While this containment of resistance or dissent is indeed an imposition, it is also clear that in some cases, the softening of dissent is a carefully negotiated strategy by both Muslim women and men. For example, in calling for an end to anti-Muslim prejudice, Elmenyawwi, the spokesperson for the Islamic Centre of Québec tempers his message and asserts that: “Montreal is a beautiful city, with a wonderful and generous people. Among them are more than 75,000 Muslims, who live, work, and enjoy every aspect of life, in harmony with the rest of the society, contributing to the well-being of the city and its citizens.” (1998, A8). Elmenyawwi’s strategy of ‘sweetening’ his dissent fits neatly within the host/guest framework wherein the guest must be loyal and grateful, yet not too provocative in order to continue to function within the host’s home. This strategy becomes particularly heightened during the public forums at the reasonable accommodation commission.

For example, Heinrich reports that during a public forum in Saguenay where people expressed concern about the flood of immigration, the threat to secular values and the value in preserving the Roman Catholic heritage, some immigrants “preached the virtues of blending in, not standing out” (2007, A8). Or, in Rimouski, “Several immigrants also showed up, most of them Arab. Medhat Attalah, a Rimouski marine specialist from Egypt, said Québec should stay secular as a hedge against religious extremism of the kind he knew in his native country” (2007, A9). The suggestion here is not that there are no alternative narratives, or that these words are not ‘authentic’. Rather, it is simply to say that if we remember that as citizens we are always constantly negotiating the bounds of our political subjectivity, it becomes important to reflect upon the ways in which ‘diversity’ governance and conceptions

of security may be implicated. Moreover, these kinds of considerations help contextualize why other forms of resistance or discourses of dissent are deemed unacceptable.

From this perspective, it is meaningful that in describing the public forum hearings in Laval, Heinrich identifies No One is Illegal, a grassroots anti-colonial immigrant and refugee rights collective as a “militant pro-immigrant group” (2007, A7). Or, in the earlier period, less palatable analyses, such as Ameria Elias’ assertion that Muslims are often unjustly singled out and that this is not just an issue of ignorance, become linked to “the heart of recent Islamic revivalist movements that angrily target Western policies.” (Khawaja 1997, E3). Or, we can consider the controversy over a poem, written by a young male Lebanese Montrealer in reaction to Hérouxville’s code of conduct; the poem was published in an Arab language Montreal newspaper in 2007. In it, the poet adopts the voice of a Muslim woman who wears an Islamic veil who is reacting to those who criticize her veil. The poet Haydar Moussa explains, “She’s criticizing anyone who tries to bring her down, who tells her, ‘Your veil is bad for our society’” – he goes to explain, “She’s saying: ‘You made mistakes and I never said anything. So why criticize me for something that is very personal?’” (Heinrich 2007, A10). Reaction to the poem in LTEs was *furious* – the poem was called an outrage, the work of hypocritical fanatics, extremist propaganda, contemptible: “Haydar Moussa’s poem got me so upset I couldn’t breathe. It seemed like extremist propaganda to me. Why do they let people like this in? What can they contribute here? Why do they come here if we’re all sluts and degenerates? What makes them think that they are better than us? I wonder what would happen to me if I wrote that kind of a poem in an Arab country (against Muslim women, let’s say)” (Brossoit 2007, A24).

A third major regulatory strategy running through the entire twenty-five year period is this idea of dialogue, a discourse that was particularly heightened during the public forums of the Bouchard-Taylor commission. The presumption developed early on in the period is that dialogue is always good, debate is always healthy, and inclusion is always desirable. For example, asked to comment on the often racist public conversations on reasonable accommodation, Madam Louise Arbour, then-Chief Prosecutor of the International Criminal Tribunals for the former Yugoslavia and Rwanda, asserted that the debate was “healthy” (Bauch 2007, A7). Then-Governor General Michaëlle Jean also referred to the forums as a “healthy exercise”, remarking that it was good to “bring these things out in the open and talk about where we go together and how we define our citizenship” (Thompson 2007, A1). Or, in 1994, then Cultural Communities minister Bernard Landry suggested that the solution to the problem of the hijab and religious freedom was establishing limits through encouraging reflection and discussion to form a societal consensus; this discussion was to be framed by tolerance, but that this tolerance has its limits (Block 1994, A6). This commitment was echoed in the 1995 QHRC report, wherein the hope of the study was to “open public debate on religious pluralism”.

A few points are worth noting here. First, my contention is not that dialogue is necessarily undesirable; instead, the point here is that the presumption that dialogue is a solution to the problem is located within strategies of governance that are fundamentally *not* concerned with establishing the particular prerequisites for meaningful dialogue. Consequently, the invitation to dialogue with marginalized, racialized and/or dissident citizens often comes with a cost.

Second, in making its way out of the legal realm and into socio-political discourse, reasonable accommodation was recoded from its more circumscribed legal meaning as well as away from its firm rooting in substantive equality. This transition is important, because as the idea of reasonable accommodation was flooded with issues of identity and nationalism, becoming what in some quarters was an attempt to “[chart] aspirations or [provide] symbolic social connections for people” (Bauch 2007, A3), the courts and the guarantees of law (hence equality) become, ironically, less well equipped to handle accommodation cases. Given the double-edged nature of the law, this movement away from the legal realm can, to some degree be characterized as disempowering for racialized and religious minorities as their chain of recourse becomes ambiguous. The invitation to dialogue, particularly when it is contained within the bounds of reasonable accommodation, opens up an array of issues for negotiation amongst individuals and groups that are marked by imbalances of power.

Third, the invitation to dialogue is always coded with purpose. In the case of the reasonable accommodation forums, what was the purpose of the public consultations? In a 2007 news conference, Charles Taylor stressed the importance of the public hearings and suggested that, “It’s important for us to reach as many people as possible and give them the opportunity to express themselves freely...A lot has remained unsaid (*about immigrants*) and there’s an unease that has not yet clearly been expressed” (Carroll 2007, A1 – emphasis added). And, in a September 7, 2007 editorial regarding the reasonable accommodation hearings, this “project” was identified as so important “...that we simply cannot afford for it to be scuttled or hijacked” (B6). *The Gazette* would go on to note that minority communities (amongst others) criticized the exercise as being “by whites for whites”, which the paper

acknowledged was, in part correct. Yet, the editorial went on to state that despite this, “...there is an important part in this process for minority input, *not only to express their concerns but also to acknowledge and try to defuse the angst of the majority*. Minority groups would be foolish to snub the commission. Do they expect a fairer hearing on the talk shows?” (Editorial 2007, B6 – emphasis added). It seems then, that not only is the commission a type of collective indulgence that racialized and/or religious minorities are supposed to tolerate, but insidiously they are also expected to participate in it. As invited guests, marginalized, racialized and/or dissident citizens should be grateful. The responsibility of Muslim women is to ease the majority’s concerns. If she does not come, this is a sign of separateness as well as *her* inability to be reasonable. If she does come, she should brace herself to be on the defensive and be patient with her reassurance.

The picture here is not one in which the commission offers no space for voice and engagement – certainly, there are clear and important moments and strategies of resistance that the commission hearings did in fact enable or inspire. What is important to note however is that we should be troubled when this becomes the standard or the measure against which the choice not to be involved is labelled as something subversive and antagonistic. When this becomes the case, the political realm and the political repertoire of marginalized, racialized and/or dissident citizens narrows significantly, particularly when accompanied by the threat of disciplinary or sovereign power. Moreover, when this becomes the case, the discursive move that concretizes the authority of the commission does so by rendering all things associated with the commission (the process, the consultations, the commissioners themselves, the final report) neutral and apolitical, despite the fact that the commission is a technology of a distinctive strategy of governance. Again referring to the

political mobilization of No One is Illegal against the Bouchard-Taylor commission, Heinrich offers the following narrative that clearly casts those engaging in subversive dissent as frustrating the important and 'legitimate' quest for dialogue:

They stood in the first and second row to speak: an 11-year-old boy in a bright red poncho, a French-literature scholar in a blue hijab, a Haitian economist in a suit. Three portraits of modern Québec, three visions of what Québec should be: kinder to immigrants, to the religions they bring and the jobs they dream of. But it was hard to hear the message. With demonstrators shouting anti-racism slogans outside the door, the three were among about 190 people who came to speak their minds last night at the Bouchard-Taylor commission's first open-mike forum at the Palais des congrès. Outside, on the convention centre's top floor, about 30 protesters bellowed into megaphones about "the racist commission," broadcast feedback, played music and banged the walls to compete with the amplified voices in the meeting hall (2007, A8)

2.4 CONCLUSIONS

This chapter has examined citizenship discourses and practices which govern and regulate Canadian Muslim women through race, security and notions of dissent. The purpose here has been to provide a differently oriented narrative about the citizenship trajectory than might be offered by the liberal theorists of differentiated citizenship, both in terms of scope, but also in terms of complicating presumptions that the events of 9/11 disrupted an evolutionary and linear citizenship 'path'. Here, the liberal focus on juridical citizenship and questions of belonging is displaced by a focus on citizenship as regulation and regulated inclusion. In addition, a focus on the historical lineage of contemporary reasonable accommodation debates demonstrates the ways in which notions of exceptionality submerge consistent patterns of governance. Moreover, in focusing on governmentality, securitization, racialization and dissidence, the analysis offered here crafts

a narrative that more fully captures the complexities of citizenship for those who occupy the margins, with attention paid to shifts in citizenship regulation, as well as major continuities.

A number of significant observations can be made. First, as was expected, over the 25 year period the veil remained the placeholder for concerns, anxieties and moral condemnation; an over-determined signifier, “...deployed to illustrate the clash of civilisation, women’s oppression in Islam, the fundamentalist period and the pitfalls of multiculturalism” (Bilge, 2010, 10). The mere presence of the veil introduced some dimension of risk or threat into the citizenship narrative, and the veil itself became a site of and tool for regulation.

Second, there is a remarkable level of continuity in the presence of Muslim women who veil in the texts over this 25 year period. Even in those moments when there is no crisis story to be told in Canada, the way Muslim women dress remains an ongoing fixation in internationally focussed stories as well. Third, Muslim women are deemed political and summoned into the pages of *The Gazette* primarily when an issue of controversy arises with respect to their religious dress. Fourth, and related, there is continuity across the period in that the political world of Muslim women is assumed to be contained by her hijab, her niqab or her burqa.

Fifth, analysis of the texts from this period demonstrates that there is a long history where Muslim women or girls are being evicted from public space because of their veil or headscarf. In this sense, the citizenship story of these marginalized and racialized citizens demonstrates the ways in which tenuous belonging can have a formal outcomes, or put differently the ways in which inclusion itself is a form of regulation. Moreover, while the

rationale for these expulsions may shift, especially with respect to ever-greater securitization, the solution of removing them from public space remains relatively constant.

Sixth, the frequency and often fervour with which Muslim women who veil are excluded from public space suggests that goals such as integration are not necessarily the primary interest of 'diversity' management strategies of tolerance, multiculturalism, interculturalism, or reasonable accommodation. Seventh, while the narratives of justice fluctuate during this period (i.e. tolerance, gender equality, freedom of religion, etc...), there continues to be an underlying assumption that any inclusion, dialogue or debate is desirable, and somehow neutral. In this sense, if we are to use levels or quality of inclusion/dialogue as measures of change, this analysis suggests that we need to have a better way to characterize the often ambiguous consequences of being 'folded in' or in Dhamoon's terms, the costs of "regulated inclusion".

Eighth, in tracking discourses and practices of citizenship across this time period, the citizenship trajectory of Muslim women reads as a long list of disciplinary lessons that accrue slowly over time. In this sense, a focus on disciplinary power and continuity yields analyses that offer richer insights into the choices marginalized, racialized and/or dissident citizens make around how they mobilize, dissent, or view their own citizenship. Ninth, despite expectations that Muslim women would be characterized as firmly rooted in their community, the texts are interesting in that Muslim women generally appear as detached from their families. This erasure becomes particularly significant given that as these women are increasingly subject to surveillance and scrutiny, they are presented as completely disconnected from the security regime put in place by the 'War on Terror'.

Finally, these observations suggest that, at a minimum, the relative coherence in the citizenship discourses and practices governing Canadian Muslim women challenges the assumption that the attacks of September 11 2001 were fundamentally disruptive. By experimenting with alternative and critical ways of telling these citizenship stories, we may emerge with a significantly different understanding of how and why we measure change.



Chapter 3: Disciplining Dissident Citizens: Palestine Solidarity Activism on Canadian University Campuses after 9/11

3.1 INTRODUCTION

There is a growing effort to pressure universities to monitor classroom discussion, create speech codes, and, more generally, enable disgruntled students to savage professors who express ideas they find disagreeable. There is an effort to transmogrify speech that some people find offensive into a type of action that is punishable. (Cole 2005, 7).

Underlying recent attacks on the university is an attempt not merely to counter dissent but to destroy it and in doing so to eliminate all those remaining public spaces, spheres and institutions that nourish and sustain a democratic civil society. (Giroux 2006, 2-3).

Just a few weeks after the September 11, 2001 terrorist attacks, I attended the “Women’s Resistance: From Victimization to Criminalization” conference in Ottawa, organized by the Canadian Association of Elizabeth Fry Societies and the Canadian Association of Sexual Assault Centres. Dr Sunera Thobani, professor of Women’s Studies at the University of British Columbia, was part of the opening plenary, “Locating this Conference in the Wider World — 2001”. In the weeks following the terrorist attacks, Ottawa was buzzing. People were shaken by the loss of life, the surreal imagery and the sudden compression of political space where it was unfathomable that things like *this* could happen ‘here’ and to ‘us’. But, in coffee shops and pubs, amongst trusted friends, we were all also buzzing about the chill – this chill against speaking and thinking about the attacks in a critical and political way.

In her keynote, Thobani blasted through that chill, challenging imperialist American foreign policy. Among other points, she called on feminists to resist the cusp of violent retribution we were poised on, and she reminded us all that imperialism and militarism would have very particular ramifications for women (Thobani 2003, 400). The very next

day, we were all buzzing inside the Conference Centre as a racialized and gendered backlash to Thobani's address, or more precisely to Thobani herself, had exploded. She was vilified, accused of hate speech, she was the subject of a hate crimes investigation by the Royal Canadian Mounted Police (RCMP) based on an *anonymous* complaint, she received death threats, she had her citizenship questioned, etc... (Arat Koc 2005, 33). Freedom of speech and dissent, indeed.

During this pedagogical moment, Thobani received and resisted an exceedingly strong disciplinary lesson regarding racialized and gendered citizenship. Moreover, Thobani received and resisted an extremely strong disciplinary lesson about the particular costs of being a dissident citizen. Yet, it was not simply Thobani who was being disciplined. This lesson, delivered most clearly to her, was also directed towards 'us'. Collectively disciplined, these are the bounds, we were told, of what can be uttered and by whom. These are the bounds of resistance and acceptable political discourse.

Was this new? Was this form of regulation which ultimately depends on self-surveillance and co-surveillance particular to the post-September 11 context? Thobani's case certainly is not the first, nor has it been the last example of this kind of pedagogical moment for dissident citizens, or those marginalized citizens practicing an oppositional democratic politics that contests prevailing arrangements of power (Stasiulis and Bakan 2003, 141

When we think about changes to the disciplinary boundaries of Canadian citizenship, *how* these boundaries are enforced, and how dissident citizens are governed and regulated through citizenship, the post-September 11 period seems to be marked by a particularly hostile climate to Palestine solidarity activism, with universities themselves a key site and

mechanism of regulation. In this 'post-9/11' period, all levels of government in Canada (federal, provincial and municipal), international bodies, international organizations and states, university administrations, non-governmental lobby groups, the media, academics themselves and students have all participated in a well-coordinated, vigorous and targeted 'schooling' of Palestine solidarity activists.

The tools used to deliver these lessons have been diverse, including public shaming campaigns targeting Palestine solidarity activists as being anti-Semitic, attempts to institutionalize a broadened definition of anti-Semitism, the wielding of student codes of conduct *against* students, the regulation of campus space in order to restrict free speech, and attempts to neutralize or depoliticize the politics of Israel/Palestine through peace and dialogue initiatives, to name just a few. The discursive terrain on which these lessons have played out have been academic freedom and freedom of speech, a co-opted discourse of anti-racism, the grounds of morality, as well as on the terrain of liberal humanitarian values. Is *this* new or particular to the post-September 11 period?

In some ways, the regulation of Palestine solidarity activists on Canadian university campuses echoes Thobani's case. Like Thobani, Palestine solidarity activists are operating within a context in which they are challenging dominant arrangements of power and they are contesting formal institutionalized channels for political activity and mobilization. In this way, as individuals and as a collective, they are dissident. In addition, like Thobani, the backlash against Palestine solidarity activists involves disciplinary forms of power which rely on surveillance and co-surveillance, public shaming as well as strategies of inversion as Thobani and Palestine solidarity activists are themselves recast as predatory threats or risks.

These parallels prompt similar kinds of questions regarding the ways in which the state has and continues to regulate dissident citizens because of and in spite of the 9/11 terrorist attacks. In Sunera Thobani's case, she was a Canadian Muslim feminist scholar before and after the September 11, 2001 attacks. These facts did not change and Thobani had already been subject to similar citizenship 'lessons' prior to the terrorist attacks of 2001. In 1993, two months prior to Thobani being elected as the first woman of colour to head the National Action Committee on the Status of Women, she was subject to a similar, if less virulent, series of attacks in the media. She was labeled an illegal immigrant by a federal Tory MP, and it was questioned whether she was fit to represent "Canadian women" and a national feminist organization (Goddu 1999).

In the present case, while the attacks on academic freedom, debate and critique, as well as the disproportionate interest in, and monitoring and obstruction of the activities of Palestine solidarity activists seems 'exceptional', the lineage of the pushback against Palestine solidarity activism on Canadian campuses can also be traced back well into the pre-September 11 period.

As just one example, in 2008, the University of Western Ontario's Public Interest Research Group (PIRG) was deratified as an official student club by the Clubs Policy Committee of the University Student Council (Corrigan 2008). While the official deratification notice gave no specific grounds or reasons for the action, Corrigan notes that the PIRG had officially sponsored a number of Palestine solidarity speakers on campus in the wake of the deratification of the Solidarity for Palestinian Human Rights (SPHR) group in 2006 (Corrigan 2008b, 4) This was one of four cases, the earliest of which was in 1982, in which complaints were mounted by student groups against the University of Western

Ontario and the University Students' Council (USC) on the basis of anti-Palestinian and anti-Arab racism (Corrigan 2008b, 4)⁶³. With the support of the Canadian Civil Liberties Association, as well as a supportive editorial in the *Globe and Mail*, in at least one case, the Ontario Human Rights Commission ruled that the USC had to issue an open apology, pay four Arab students \$2,000 each and ratify the student group in question (Corrigan 2008, 4; Smith 1994, A10).⁶⁴

Given this, it can be asked if something distinctive is happening with respect to the regulation of Palestine solidarity activists on Canadian university campuses after September 11 2001. As explained in earlier chapters, mainstream liberal narratives on citizenship in Canada, particularly the liberal theorists of differentiated citizenship, have had little to say regarding dissident citizens, or citizens who fundamentally disrupt the promises and premises of inclusion itself. In this way, thinking analytically about changes and consistencies in the regulation of Palestine solidarity activists *as dissident citizens* offers an important site of interrogation to consider broader narratives of citizenship change.

This case study explores these questions by looking specifically at the regulation of Palestine solidarity activists at York University in Toronto, Ontario, Canada between 1980 and 2010. Set in the context of governmental belonging, active and dissident citizenship,

⁶³ Corrigan notes that three complaints against the university were upheld, and one complaint against USC was upheld. For more information on the original complaint see Edward C. Corrigan, 1987, "The Palestinian Question at the University: The Case of Western Ontario", *American-Arab Affairs* 21: 87-98.

⁶⁴ Smith (1994) reports that the initial complaint involved a number of incidents, one in which a former student of the University of Western Ontario was asked, "Are you an Arab?" when she tried to reserve a room on campus for an event. She was told by the university that the "...administration didn't want 'any riots on campus.'" Also in 1987, the university deemed a poster advertising an on-campus lecture by a representative of the Palestine Liberation Organization as offensive. The award-winning poster pictured "...Palestinian women and children surrounded by Israeli soldiers dressed in Nazi uniforms". A complaint was also made that the university did not respond to student concerns that the student newspaper had published "racist, anti-Arab caricatures" for a decade.

regulated inclusion, as well as discourses of dissent and academic freedom, this case study draws on media accounts in York University's student community newspaper, *Excalibur*, to consider whether 9/11 fundamentally reconstituted the disciplinary boundaries of the Canadian 'nation' with respect to this group of dissident citizens, and explores the practices and strategies used to reign in this group of activists, scholars and students.

This chapter maps out a timeline of the regulation of Palestine solidarity activists in Canada after September 11, 2001. In the first section of this chapter, I trace the ways in which the organized backlash against Palestine solidarity activists on Canadian university campuses has been notably intense, particularly after 2008. In this period, pro-Israel supporters have harnessed the notion of 'new anti-Semitism' to target organizers of the increasingly successful Israeli Apartheid Week, in a period marked by strong political backlash against Palestine solidarity activists, as well as a targeted on-campus backlash against those advocating for the human rights of Palestinians. In this way, the post-9/11 period does seem to have been a particularly fraught political moment for Palestine solidarity activists, tensions also acutely evident on York University campus. In the second section of this chapter, I outline the specific case of York University, focusing on three major post-9/11 periods of intense activism and regulation of Palestine solidarity activism. I argue that in the post-9/11 period, the politics of Israel/Palestine were particularly contentious on York University campus, and Palestine solidarity activists were subject to intense and arguably heightened forms of regulation which specifically targeted their capacity to mobilize as political dissidents. However, the intensity of activity and the specific modes of regulation employed are not clearly or simply linked to the events of September 11, 2001.

In subsequent chapters, Chapters 4 and 5, I consider empirical evidence to test the assertion that the period of intense regulation of Palestine solidarity activists in the post-9/11 period is uniquely linked to the 2001 terrorist attacks. These two chapters will focus on an analysis of York University's community newspaper, *Excalibur*, over a 30-year time period (1980-2010), along three key dimensions: governing through exception (Chapter 4), governing through crisis and security (Chapter 5), and governing dissent (Chapter 5). While dominant narratives might focus on the 'newness' or exception of this as an example of the intense regulation of dissident citizens, the starting point for this case study emphasizes that Canadian citizenship has historically been precarious for certain groups of dissidents, and that the lineage of this particular anxiety far predates events that are conventionally described as fundamental ruptures.

3.2 SITUATING 'THE PROBLEM' AFTER 9/11 – BACKGROUND AND TIMELINE

In the years following the events of September 11, 2001, the organized backlash against Palestine solidarity activists on university campuses both inside and outside of Canada has been unquestionably intense, particularly after 2008. Drawing attention to the Israeli government's consistent violations of international law with respect to the situation of the Palestinians, the occupation, and the experience of Palestinian refugees, as well as the role of the international community in facilitating these abuses, this group supports a Palestinian-led movement to end the oppression and dispossession of Palestinians. While the post-9/11 period may seem unique in terms of how this dissident group of citizens is 'disciplined', it is not clear that the ratcheting up of the backlash and the accompanying modes of citizenship regulation are directly, temporally or uniquely linked to the September 11 terrorist attacks.

3.2.1 The 'new anti-Semitism'

Certainly, in the post-9/11 context, governmental and institutional support for the state of Israel has been accompanied by a multifaceted backlash against Palestine solidarity activists. Most broadly, the backlash has been framed as an attempt to fight the supposed anti-Semitism of those advocating for the rights of Palestinians. The stress on what has been termed the 'new anti-Semitism' has been strategically important for Israel advocates in that it has lent moral weight to the occupation and a self-identified Zionist⁶⁵ project whose propaganda arm relies on the consistent 'illiberal' suppression of academic freedom and freedom of speech. Dobbin (2009), for example, notes that anyone who criticizes Israel is labelled anti-Semitic and that this strategic labelling is intended to silence and intimidate. When the critiques of the state of Israel are generated by individuals who are themselves Jewish, they are then described as 'self-hating Jews' (Dobbin 2009).

Beyond this, however, the substantive strength of the backlash against Palestine solidarity activists in the post-September 11 context lies precisely with the institutional and governmental support that these allegations of 'new anti-Semitism' have received. Moreover, the backlash has gained leverage with often successful attempts by pro-Israel supporters to institutionalize this new definition of anti-Semitism where criticism of Israel's politics are alleged to function as a proxy for anti-Jewish racism.

For example, in March 2009, the largely criticized, and now defunct, Canadian Parliamentary Coalition to Combat Anti-Semitism (CPCCA) was formed. This ad-hoc, multi-

⁶⁵ As cited in Abu-Laban and Bakan (2008), Uri Davis (2003) describes Zionism as a "political strategy and ideology" that is "...committed to the normative statement that it is a good idea to establish and consolidate in the country of Palestine a sovereign state, a Jewish state, that attempts to guarantee in law and in practice a demographic majority of the Jewish tribes in the territory under its control" (640).

party, voluntary association made up of 22 Canadian Members of Parliament charged *itself* with inquiring into anti-Semitism, adopting the perspective that in the contemporary period, anti-Semitism was at its worst level since the end of the Second World War (CPCCA, 2011, 1). Despite drawing a distinction between anti-Semitism and “legitimate criticism of Israel that is not anti-Semitic”, the CPCCA endorsed the European Union Monitoring Centre on Racism and Xenophobia’s (EUMC) 2005 working definition of anti-Semitism which describes anti-Semitism as:

...a certain perception of Jews, which may be expressed as hatred towards Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities. In addition, *such manifestations could also target the state of Israel, conceived as a Jewish collectivity* (CPCCA 2011, 4 – emphasis added).

However, the EUMC, later renamed the Fundamental Rights Agency, had already dropped this draft working definition by 2008 (White 2012).

As Cairns and Ferguson (2011) note, what was clear about the CPCCA is that its lineage was international, and was focused on “...[cementing] the state of Israel’s privileged place in global politics”(417). For example, in its final report, the CPCCA situates itself as a deliverable from the February 2009 inaugural conference of the Inter-Parliamentary Committee for Combating Anti-Semitism (ICCA). This conference gathered 125 legislators across 40 countries in order to discuss the “increasing problem of antisemitism” (CPCCA 2011, 1). Eleven Canadian Members of Parliament participated in this conference, and it was the ICCA that issued what came to be known as the “London Declaration for Combating Antisemitism” (Naiman 2010). The declaration states:

We note the dramatic increase in recorded antisemitic hate crimes and attacks targeting Jewish persons and property, and Jewish

religious, educational and communal institutions. We are alarmed at the resurrection of the old language of prejudice and its modern manifestations in rhetoric and political action - against Jews, Jewish belief and practice and the State of Israel....Parliamentarians shall expose, challenge, and isolate political actors who engage in hate against Jews and target the State of Israel as a Jewish collectivity....Governments and the UN should resolve that never again will the institutions of the international community and the dialogue of nation states be abused to try to establish any legitimacy for antisemitism, including the singling out of Israel for discriminatory treatment in the international arena....(The London Declaration on Combating Anti-semitism 2009).

The ICCA also called on parliamentarians to establish “inquiry scrutiny panels” to determine the nature and state of anti-Semitism in their respective countries, hence the creation of the CPCCA (CPCCA, 2011, 1). Following the London Declaration and the formation of the CPCCA, a second ‘Conference and Summit of the Inter-Parliamentary Coalition for Combating Antisemitism’ was held in Ottawa in November 2010 (CPCCA 2011, 2). The outcome, the “Ottawa Protocol on Combating Antisemitism” reaffirmed the London Declaration, but attempted to draw a distinction between anti-Semitism and legitimate criticism of Israel:

...criticism of Israel similar to that levelled against any other country cannot be regarded as antisemitic. Let it be clear: Criticism of Israel is not antisemitic, and saying so is wrong. But singling Israel out for selective condemnation and opprobrium - let alone denying its right to exist or seeking its destruction - is discriminatory and hateful, and not saying so is dishonest (As cited in CPCCA 2011, 3).

Despite the many caveats, the purpose of the EUMC working definition, the ICCA, the London Declaration, the CPCCA, and the Ottawa Protocol was to institutionally entrench, normalize, *and* elevate this particular understanding of anti-Semitism as a way to prevent critique of the state of Israel and the occupation. Put differently, the CPCCA was “...the

political vehicle working to criminalize criticism of Israel under the laws of the Canadian state in line with the vision of the London Declaration” (Cairns and Ferguson 2011, 417).

3.2.2 Israeli Apartheid Week

These attempts to institutionalize the ‘new anti-Semitism’ have not simply been abstract but have had a direct impact on Palestine solidarity activism and activists, particularly when it has come to organizing Israeli Apartheid Week. This annual week of education began at the University of Toronto in 2005, and has gone global, with over 150 universities and cities currently hosting this event in order to highlight the Israeli occupation of the West Bank and Gaza. Also in 2005, over 170 Palestinian civil society organizations initiated a campaign of Boycott, Divestment and Sanctions (BDS) against Israel as means to pressure the state to meet its obligations under international law with respect to the human rights of Palestinians (Palestinian Civil Society Call for BDS 2005).⁶⁶ Both Israeli Apartheid Week and the BDS campaign have been targeted by supporters of the state of Israel. For example, in the CPMCA’s final report, Israeli Apartheid Week is described as an event “...sponsored by groups bound in common cause to demonize Israel as a Jewish homeland...[using] campuses as their staging ground because the audiences are captive and the future leaders of our country are part of those audiences.” (CPMCA 2011, 2). The CPMCA concluded that Israeli Apartheid Week and any comparisons of “...Israel to an apartheid state in general, [are] aimed at delegitimizing the State of Israel, and demonizing those who support it.” (CPMCA 2011, 54).

⁶⁶ There are three main demands in the BDS call: “1) Ending [Israel’s] occupation and colonization of all Arab lands and dismantling the Wall; 2) Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and 3) Respecting, protecting and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN resolution 194 (Palestinian Civil Society Call for BDS 2005)

The CPCCA would go on to recommend that the Legislative Assembly of Ontario pass a motion condemning IAW, an initiative that was eventually taken up in February 2010 when Thornhill MPP Peter Shurman introduced a Private Members' resolution to condemn IAW (O'Toole 2011). Shurman's resolution received support from all parties represented in the Ontario Legislature, and passed unanimously, reading in part that "...the term Israeli Apartheid Week is condemned as it serves to incite hatred against Israel" (Spivak, n.d.). Only 30 MPPs were, however, present in the 107-seat legislature (Benzie 2010).

In addition, this backlash against IAW associated with the attempt to institutionalize definitions of the 'new anti-Semitism' has surfaced at all levels of government in Canada. In 2008, Alan Baker, Israel's ambassador to Canada, publicly denounced Israeli Apartheid Week as "crude propagandism, pure hypocrisy and cynical manipulation of the student body" (De Rosa 2008). In March 2010, Toronto District School Board Director of Education Chris Spence announced that Israeli Apartheid Week and any associated activities would not be permitted on school or Board property, as well as part of any activity falling within the jurisdiction of the Toronto District School Board (East York Mirror 2010). Also in 2010, in the Manitoba Legislative Assembly, Progressive Conservative MLA Heather Stefanson introduced a Private Member's resolution on behalf to the Progressive Conservative Caucus and the Liberal Party leader of the Opposition, MLA Hugh McFadyen, which called on the assembly "to urge the provincial government to denounce Israeli Apartheid Week as divisive, promoting intolerance and undermining a balanced debate of the Israeli-Palestinian question" (Legislative Assembly of Manitoba 2010).

The following year, a majority of councillors from Markham City Council adopted a motion to censor the phrase "Israeli Apartheid Week", this despite the fact that Toronto City

staff had already determined that the phrase “Israeli Apartheid” did not violate Canadian laws or perpetuate hatred or discrimination (Canadian Arab Federation 2011).⁶⁷ The Markham notion was also notable in that no Israeli Apartheid Week events took place in Markham (Peto 2011). In 2012, the executive committee of the Toronto City Council lobbied to change the city’s anti-discrimination policy in order to explicitly prohibit criticism of Israel (Houstin 2012). The intent behind this request was to obstruct the capacity of Pride Toronto to receive funding from the city. Objections had been raised by some Toronto City councillors to the \$123,807 city grant funding of Pride Toronto based on the participation of Queers Against Israeli Apartheid (QuAIA).⁶⁸

3.2.3 Political backlash

Significantly, the 2008-2009 Israeli invasion of Gaza, or what the state of Israel would call “Operation Cast Lead”, was accompanied with a wave of strong protests and resistance by Palestine solidarity activists. Yet, the silencing campaign targeting Palestine solidarity activists on university campuses would draw an inordinate amount of strength from extremely public, institutional support in the form of pro-Israel policies of the federal Conservative government, and the Liberal Party (at the time the official opposition). In this

⁶⁷ In his report to the Executive Committee of Toronto City Council, City manager Joe Pennachetti noted that the “...phrase ‘Israeli Apartheid’ in and of itself does not violate the City’s anti-discrimination policy as it does not impede the provision of services and employment provided directly by Pride or the City to any group on any grounds....There is no legal precedent that the phrase constitutes a hate crime under the Canadian Criminal Code.” (Pennachetti 2011, 6).

⁶⁸ QuAIA had encountered problems with Pride Toronto as early as 2009, when the Pride Toronto grand Marshal, El-Farouk Khaki had introduced speakers at a QuAIA event. See, Joseph Brean, “Anti-Zionists banned from Pride parade; Protests Prohibited”, *National Post*, May 28 2009, A12. There is also a larger international context here. For example, as Zunes (2012) reports, that same year, the California State Assembly passed a non-binding resolution stating that anti-Semitic activity “not be tolerated in the classroom or on campus, and that no public resources be allowed to be used for anti-Semitic or intolerant agitation.” The resolution listed a number of examples, including the painting of swastikas, but also accusations that the Israeli government is guilty of crimes against humanity, ethnic cleansing, or student and faculty BDS campaigns against Israel. For a more detailed discussion see Abu-Laban and Bakan, 2016.

period, many have suggested that Canada appears to have the most pro-Israel foreign policy in the world with the former Israeli Foreign Minister Avigdor Lieberman stating in July 2009 that, “It’s hard to find a country friendlier to Israel than Canada these days. Members both of the coalition and the opposition are loyal friends to us, both with regard to their worldview and their estimation of the situation in everything related to the Middle East, North Korea, Iran, Sudan and Somalia. No other country in the world has demonstrated such full understanding of us.” (as cited in Nadeau and Sears 2010, 17).

In this context, high level politicians at the federal level also spoke out against the work of Palestine solidarity activists in unprecedented ways⁶⁹. In a radio interview with CJAD Radio in Montreal in May 2008, then Prime Minister Stephen Harper stated that “...in some circles is (an) anti-Israeli sentiment, really just a thinly disguised veil for good old-fashioned anti-Semitism” (McQuaig 2009, A21). The former Minister of Citizenship, Immigration and Multiculturalism, Jason Kenney, has also critiqued Israeli Apartheid Week and the work of Palestine solidarity activists. Speaking to the House of Commons in March 2009, Kenney described Israeli Apartheid Week as a “...systematic effort to delegitimize the democratic homeland of the Jewish people, a country born out of the Holocaust” and noted that at the “heart of Israel Apartheid Week” was the “...resurgence of the old slander that Zionism is racism”, in reference to the 1975 United Nations General Assembly Resolution 3379 which described Zionism as a form of racism and racial discrimination (Canada,

⁶⁹ In a 2003 editorial, Barbara Yaffe describes the Liberal government of Jean Chretien as a huge disappointment and source of frustration to Canada’s Jewish community”. Yaffe writes that the Ottawa-based Canadian Jewish Congress was eager to see Chretien retire (Yaffe 2003, A16). Under Chretien, the government would consistently vote in favour of peaceful settlement of the question of Palestine at the United Nations General Assembly, but this would shift with Prime Minister Paul Martin, at which point Canada began to abstain from voting. See Canadians for Justice and Peace in the Middle East, “Liberal Party: Historic Middle East Policy”, Factsheet, February 2013: <https://www.cjpme.org/DisplayHTMLDocument.aspx?DO=795&ICID=4&RecID=1065&SaveMode=0>.

Parliament, House of Commons Debates 2009). Kenney's comments were in response to a question posed by former-Conservative MP Paul Calandra, asking "...why the government believes that Israel Apartheid Week is anti-Semitic?", all the while noting that "...Jewish students across the country are under siege as anti-Semites unveil their plans for Israel Apartheid Week" (Canada, Parliament, House of Commons Debates 2009). The year prior, Kenney stated that "Israel Apartheid Days on university campuses like York sometimes begin to resemble pogroms" (McQuaig 2009, A21).⁷⁰ In March 2011, Kenney described Israeli Apartheid Week as being "...accompanied by anti-Semitic harassment, intimidation and bullying", inferring that Israeli Apartheid Week is "completely contrary to Canada's fundamental values" (Government of Canada 2011). Kenney would continue in March 2013, claiming that Israeli Apartheid Week and its organizers and participants "...have a regrettable history of promoting and holding events in ways that disregard the security and rights of Jewish faculty and students, censor other points of view, and limit academic discourse" (Government of Canada 2011). While Kenney stated that it is "...legitimate to debate and criticize government policies and practices", Kenney claimed that Israeli Apartheid Week operates "...under the guise of academic freedom" and promotes "inflammatory propaganda over civil and enlightening debate" (Government of Canada 2011).

Public statements have not been limited to the governing party, with the former leader of the Liberal Party, Michael Ignatieff, issuing a statement in 2011 that Israeli Apartheid Week is "...an attack on the mutual respect that holds our society together", a "dangerous cocktail of ignorance and intolerance", and that the Liberal Party "condemns

⁷⁰ Kenney's depiction of York University prompted a rebuttal from two York University professors of Jewish studies, Eric Lawee and Martin Lockshin, who stated that they could walk around campus without any fear (McQuaig 2009, A21).

Israeli Apartheid Week, in no uncertain terms” (Ignatieff 2011). The year prior, Ignatieff also condemned IAW “unequivocally and absolutely”, noting in particular his objection to the description of Israel as an apartheid state (Ignatieff 2010). This statement was despite his own article in *The Guardian* on April 19 2002, where he wrote:

When I looked down at the West Bank, at the settlements like Crusader forts occupying the high ground, at the Israeli security cordon along the Jordan river closing off the Palestinian lands from Jordan, *I knew I was not looking down at a state or the beginnings of one, but at a Bantustan, one of those pseudo-states created in the dying years of apartheid to keep the African population under control* (Ignatieff 2002 – emphasis added).

In 2013, then Liberal party leader Bob Rae, also accused Israeli Apartheid Week of “group-vilifying speech that seeks to delegitimize or demonize” (Rae 2013). In addition, just months prior to becoming Prime Minister, Liberal party leader Justin Trudeau criticized the efforts of Palestine solidarity activists, stating in an interview with *The Canadian Jewish News* that he is “opposed to the BDS movement”, describing it as “...an example of the new form of anti-Semitism in the world...an example of the three “Ds”: demonization of Israel, delegitimization of Israel, and double standard applied toward Israel” (*The Canadian Jewish News* 2015). In response to a SPHR McGill resolution calling on the university to “divest and refrain from investing in companies that pose social injury by contributing to the continuation and profitability of the illegal occupation of the Palestinian territories”, Trudeau would take to *Twitter* in March 2015 (As cited in Abunimah 2015). Trudeau expressed his disappointment with McGill University as a McGill alumnus: “The BDS movement, like Israeli Apartheid Week, has no place on Canadian campuses. As a @McGillUalum, I’m disappointed. #EnoughIsEnough” (Abunimah 2015).

The effect of these public statements has not simply been to shape public discourse. These statements have been accompanied by explicit surveillance and regulation of Palestine solidarity activists in a variety of contexts, ranging from border regulation to the way in which government funds are allocated. For example, in March 2009, British Member of Parliament George Galloway was deemed inadmissible to Canada on 'security grounds' by the Canadian Border Services Agency (CBSA) (Clark 2010). Then Minister of Citizenship and Immigration Canada (CIC), Jason Kenney and CBSA objected to Galloway's involvement in the *Viva Palestina* aid convoy to the Gaza strip following the Israeli attacks on Gaza in 2008-2009 (Voices-Voix, "George Galloway"). In its written assessment, CBSA stated that Galloway was inadmissible given that there were reasonable grounds to believe that Galloway had engaged in terrorism as a member of Hamas, a finding that the Federal Court explicitly rejected (*Toronto Coalition to Stop the War v. Canada* 2010). Also in 2010, Dr Mustafa Barghouti, a Palestinian physician, member of the Palestinian Legislative council, and political activist was scheduled to speak as part of a tour organized by Canadians for Justice and Peace in the Middle East (CJPME). CJPME was forced to cancel the tour after weeks of waiting for the Canadian government to issue the visa (Voices-Voix, "Dr. Mustafa Barghouti"). In previous visits, Dr Barghouti had received a visa within 48-72 hours after applying (Smith 2010).

The punitive elimination of federal governmental funding was also evidenced in the efforts to institutionalize and entrench the definition of the 'new anti-Semitism'. In 2009, federal funding for the Canadian Arab Federation and KAIROS: Canadian Ecumenical Justice

Initiatives⁷¹ was cut. The funding requests for the organizations had been approved at lower levels of review but Jason Kenney, then Minister of Citizenship and Immigration Canada (CIC), halted funding and stated during an address to the Global Forum to Counter Anti-Semitism in Jerusalem that CIC had:

...articulated and implemented a zero tolerance approach to anti-Semitism. What does this mean? It means that we eliminated the government relationship with organizations like for example, the Canadian Arab Federation, whose leadership apologized for terrorism or extremism, or who promoted hatred, in particular anti-Semitism. We have ended government contact with like-minded organizations like the Canadian Islamic Congress, whose President notoriously said that all Israelis over the age of 18 are legitimate targets for assassination. We have defunded organizations, most recently like KAIROS who are taking a leadership role in the boycott (Kenney 2009).⁷²

Kenney's statement was notable particularly given that KAIROS had specifically decided against advocating for BDS in 2007 (Voices-Voix, "KAIROS"). And, in the current period, there is an ongoing hostile mainstream political climate towards Palestine solidarity activists, and in particular the strategy of BDS, with the Canadian Parliament passing a motion introduced by the Opposition Conservative Party to "reject the Boycott, Divestment and Sanctions (BDS) movement, which promotes the demonization and delegitimization of the State of Israel" (Martin 2016). The motion in the Liberal dominated House passed on February 22, 2016 with 229 in favour, 51 opposed, and 57 MPs either abstaining or absent (McLeod 2016).

⁷¹ KAIROS is a Canadian non-governmental social justice organization with a long history of development work and strong ties to mainline churches. KAIROS had worked on development projects together with the Canadian International Development Agency (CIDA) since 1973. The organization's annual budget allocation from CIDA was approximately \$7 million. See Voices-voix, "KAIROS".

⁷² The punitive elimination of funding has also affected the United Nations Relief and Works Agency (UNRWA), Palestine House, as well as IRFAN-Canada, all groups with a connection to Palestine solidarity work.

3.2.4 On-campus backlash

These kinds of allegations of anti-Semitism, as well as the accompanying forms of disciplinary surveillance have spawned a whole series of regulations regarding what has been considered speakable or unspeakable on Canadian University campuses.⁷³ In the Canadian context, the events at Concordia University in Montreal, Québec in September 2002, in which a talk by then, and now current Israeli Prime Minister Benjamin Netanyahu was cancelled due to massive on-campus protests, undoubtedly had a formative impact on the nature of the backlash and regulation of Palestine solidarity activists on Canadian university campuses. During these protests, Palestine solidarity activists and pro-Israel supporters clashed, with the former describing Netanyahu as a war criminal, organizing a blockade with the intent to issue a symbolic arrest warrant for him (Dirlik 2002, 51).

For the first time in thirty years (Chauvin 2012), riot police were called to Concordia University campus and the clashes between self-identified Zionists, pro-Israel supporters and Palestine solidarity activists would receive international attention.⁷⁴ Netanyahu himself drew on the post-9/11 climate of fear, accusing Palestine solidarity activists of supporting Saddam Hussein and Osama bin Laden, equating the protesters to terrorists, and drawing comparisons between suicide bombers in Israel and Palestine solidarity activists (Dirlik 2002, 51)⁷⁵. In the wake of the protests, all Concordia University campus events related to

⁷³ For example, in the 2012 report, "A Burning Campus? Rethinking Israel Advocacy at America's Universities and Colleges", The David Project identifies "pervasive negativity toward Israel" on American university and college campuses as a threat to "long-term bipartisan support for the Jewish state." (2012, 6).

⁷⁴ See for example, BBC News. "Canada protests stop Netanyahu speech". *BBC News World Edition*, September 10, 2002. Accessed February 26, 2016. <http://news.bbc.co.uk/2/hi/americas/2248555.stm>.

⁷⁵ Netanyahu would go on to remark that it was "zealotry" and "hate" that caused his Concordia speech to be cancelled: "What you saw in Montreal was not merely the presence of homegrown, irresponsible radicalism that is centred in that university....This was the importation into Canada of a zealotry that knows no limits and ultimately can develop into something else. I think this should serve as a warning to this society, which is a

the Middle East were temporarily banned, and groups were barred from setting up tables on the floors of the building where the clashes had taken place, seemingly sparking a new era in the regulation of campus space (Chauvin 2012).

The first event to be affected by the new restrictions was a scheduled lecture by Dr Norman Finkelstein, an outspoken critic of the state of Israel and a supporter of Palestinian human rights (Dirlik 2002, 51). In addition, where the power to expel students had previously only been available to the Academic Hearing Panel and student tribunals, the President, Rector Frederick Lowy would now be granted the power to expel students in “exceptional cases” (Chauvin 2012). The university also established a ‘Risk Assessment Committee’, which a spokesperson for the university would later describe as a “short-lived initiative” (Chauvin 2012) but critics would describe it as a secretive committee with the power to silence critical voices (Valiante 2008).

In addition to attempts to institutionalize a new definition of anti-Semitism, the surveillance and regulation of Palestine solidarity activists through border control, and the punitive elimination of government funding, the modes of regulation and surveillance at Concordia would appear on other Canadian university campuses, particularly after the 2005 call by Palestinian civil society for a campaign of boycotts, divestment and sanctions (BDS) against Israel, as well as with the launch of the first Israeli Apartheid Week, held in Toronto that same year.

At the broadest level, Jewish students have been singularly positioned as at risk on university campuses. For example, on December 17, 2002, an advertisement appeared in

good and decent democratic society that it cannot and should not be tolerant to those who would destroy the very freedoms that make our democratic societies what they are.” See Rowe and Trickey 2002, A15.

the *Globe and Mail* which stated that Canadian Jewish students are subject to an intolerant and frightening atmosphere on Canadian university campuses. Because of the “struggle between Israelis and Palestinians”, pro-Israeli students face a “chill”, where their basic rights and ability to “speak unimpeded” are threatened. Over 100 signatures endorsed this statement in “Solidarity with Jews at Risk in Canadian Universities”, including prominent academics and writers like Irving Abella, Doris Anderson, Margaret Atwood, Neil Bissoondath, Peter C. Newman, Heather Reisman, and June Callwood, to name just a few. In recent years, advertisements of this type would be more frequent, framed in a critique of Israeli Apartheid Week, yet still focused on the university campus as a place of profound insecurity for Jewish students.

Although these types of public denunciations of *institutions* as a whole seem almost common-place yet unique to the post-9/11 context, media-supported campaigns targeting specific academics who are supportive of Palestinians have also occurred after 9/11. In 2002, Professor Sherene Razack of the Ontario Institute for Studies in Education (OISE) was targeted by pro-Israel supporters after she distributed a resolution that condemned the Israeli invasion of the West Bank that same year, and drew attention to the targeting and devastation of Palestinian infrastructure as well as civil society and educational institutions by Israel (Podur 2009). The resolution had been drafted by attendees of the ‘First National Conference of Critical Race Scholarship and the University’⁷⁶. On the basis of circulating this resolution, four months later, Razack was subject to a campaign of emails and news articles in the *National Post* which called for her dismissal (Nadeau and Sears 2010, 9; Podur 2009).

⁷⁶ For a copy of the resolution see: <http://www.canpalnet.ca/academic.html>.

Razack and the Dean of her faculty also received a number of sexist and racist phone calls, emails and threats, with the press participating in the campaign against her (Podur 2009).⁷⁷

In December 2008, retired Simon Fraser professor Mordechai Briemberg was also subject to a silencing campaign via the media which relied on the deployment of particular legal tools in order to silence his support for Palestinian human rights. Briemberg was targeted via the media conglomerate CanWest/Global through the use of a Strategic Lawsuit Against Public Participation (SLAPP) suit.⁷⁸ The Palestine Media Collective, in which Briemberg was active, had produced a highly convincing parody of the *Vancouver Sun* newspaper in order to expose CanWest/Global's pro-Israel stance (Friedman 2008). CanWest/Global identified Briemberg, Horizon Publications (Ltd), as well as six other unnamed individuals as having produced and distributed the parody (Moiseiwitsch and Murray 2008).

In the American context, numerous academics have been subject to well-organized and aggressive silencing campaigns, with the attacks against professors at Columbia University's department of Middle East and Asian Languages and Cultures (MEALAC)⁷⁹ being a particularly vivid illustration of this tactic. Here, the attacks would reach a particularly fevered pitch in November 2004 following the release of a film produced by a Boston-based Zionist Organization called the David Project, entitled, "Columbia Unbecoming". The film

⁷⁷ Questions were raised as to whether Razack was allowed to use her university email account to distribute the resolution from the conference. See Podur, 2009. In August 2002, a number of academics would sign onto a public editorial defending Razack's right to critique to the state of Israel. See, Dr Ruth Roach Pierson, Dr Dwight R. Boyd, Dr Zoe Newman, Dr Yvonne Bobb Smith, Dr Jennifer Nelson, Dr Donna Jeffrey and Dr Barbara Heron, "Editorial: Defending Razack", *National Post*, August 19 2002, A15.

⁷⁸ SLAPPs are generally launched by large corporations with the intention to intimidate and silence critics by burdening them with exorbitant legal costs.

⁷⁹ The department has since been renamed the Middle Eastern, South Asian and African Studies (MESAAS) department.

profiled a number of self-identified Zionist students at Columbia University alleging that they had faced ongoing anti-Semitic intimidation by professors of MEALAC, and called for them to be fired.

In the post-September 11th period, student groups and individual students would also be targeted in seemingly unprecedented ways by Israel advocacy organizations. For example, In November 2005, Solidarity for Palestinian Human Rights (SPHR) at the University Western Ontario was sanctioned after displaying a map of historic Palestine as part of a display which drew attention to, and criticized Israel for building a “Separation Barrier” (The Gazette [Western] 2005). The group was barred from using public space on campus for 365 days. Or, in February 2008, through the Human Rights and Equity Office, McMaster University administration stated that literature referring to “Israeli apartheid” and events held under the auspices of “Israeli Apartheid Week” were “unacceptable” in that they violate the “...university’s efforts to ensure that all people will be treated with dignity and tolerance” (McMaster SPHR 2008). Also in 2008, students organizing the ‘Standing Against Apartheid Conference’ at the University of Toronto were met with extensive bureaucratic obstacles and hurdles, including the denial of room bookings (Schofield 2009). One year later, two Ottawa universities - Carleton University and the University of Ottawa - banned posters promoting Israeli Apartheid Week 2009. The poster featured a drawing of a military helicopter marked ‘Israel’ shooting a missile directly towards a small Palestinian child wearing a keffiyeh and holding a stuffed toy. The University of Ottawa described the posters as “inflammatory and capable of inciting confrontation”, and Carleton University stated the posters were “hurtful and discriminatory” (Shefa 2009). In addition, at Carleton University, students received an email from the Provost warning them to familiarise

themselves with the University's Human Rights Policy as well as the Student Rights and Responsibilities Policy (Saifer 2009, 85).⁸⁰ In 2013, the University of Manitoba Student's Union (UMSU) Council revoked the student club status of the university's branch of Students Against Israeli Apartheid (SAIA) (Hopper 2013). The decision to ban SAIA from operating on UMSU spaces was made on the basis of a claim that the group was guilty of "discrimination" and "harassment" (Hopper 2013). This pattern of regulating space and regulating students through student codes of conduct has been replicated across various university campuses, including York University, as will be detailed.

Individual students have also not been spared from this backlash against activism for Palestinian human rights. For example, in December 2010, members of the Ontario Legislature took the unprecedented step of condemning an MA thesis written by Jenny Peto, a recent graduate of the Sociology and Equity Studies program at OISE (CAUT Bulletin 2011). Preceding this public condemnation, the thesis, entitled "The Victimhood of the Powerful: White Jews, Zionism and the Racism of Hegemonic Holocaust Education", was roundly denounced by individuals associated with pro-Israel organizations like the Canadian Jewish Congress, and the March of the Living, as well as Irving Abella, a history professor at York University and prominent self-identified Zionist (Dale 2010). Even the *National Post* and the *Toronto Star* picked up on this debate over the graduate work of Peto. For example, OISE was condemned as extremist by Richard Klagsbrun, John Kay and the *National Post* editorial board (Sztainbok 2011). Despite not having even read the thesis, the work of Peto herself

⁸⁰ January 2009 was also significant in that Dr Norman Finkelstein, a prominent academic supportive of Palestinians and critical of the policies of the state of Israel, delivered a lecture at the University of British Columbia which was subsequently broadcast by Shaw TV. In the broadcast, a number of words from Finkelstein's lecture were censored, or 'bleeped', including "massacre", "slaughter", "Gaza, Israel's favourite shooting gallery", "bloodbath", "lunatic", and "but 400 Palestinian children incinerated...that doesn't concern him". See Solidarity for Palestinian Human Rights 2009.

was described by MPPs as anti-Semitic, and denounced, along with other theses within the program, as not academically rigorous (CAUT Bulletin 2011). In response, Faculty for Palestine, a network of faculty from over Canadian universities and colleges, issued a statement condemning these attacks on OISE and Peto (Faculty for Palestine(b) 2010).

As this abbreviated history shows, the post-September 11 period was a deeply fraught political space for Palestine solidarity activists. These tensions were particularly heightened on York University campus. The nature of the securitization of Concordia, and the subsequent regulation of Palestine solidarity activists through preventative risk assessment, the regulation of campus space, restrictions on political speech on Israel-Palestine, the targeting of students through student codes of conduct, and the use of cosurveillance, where students monitor the behaviour of their peers, as a regulatory and disciplinary strategy seem temporally linked to the terrorist attacks of 9/11. Yet these forms of regulation, invariably supported by Israel advocacy organizations, are linked to larger international trends that are historically based. In even a cursory way, the clash at Concordia and the subsequent regulation of these activists can be traced back to tensions prior to September 11, 2001. As Chauvin (2012) explains, at the start of the 2001 academic year, Concordia Student Union's choice to publish a free-day planner entitled "Uprising", a publication which expressed support for Palestinian human rights, was met with strong resistance from Israel advocacy organizations. The reaction did grow in intensity after September 11, 2001, and the backlash became framed within this 'new' context.⁸¹ Also, after

⁸¹ Chauvin (2012) describes how on October 2, 2001, the Executive Director of B'nai Brith Canada, Frank Dimant, described the day planned as a "...blueprint for Osama bin Laden's youth program in North America". B'nai Brith Canada representative Steve Slimovitch also described the day planner as being of interest to CSIS. See Conway (2001).

the release of the student agenda, the University administration requested that three Québec government ministries investigate the student union (Bokser 2001). Earlier still, in November 2000, working together with Solidarity for Palestinian Human Rights (SPHR), the Concordia student union voted to support UN Resolution 242, calling for Israel to pull out of land occupied since 1967 (Bokser 2001).

3.2.5 The case of York University after 9/11

York University is a particularly interesting and relevant site of analysis when considering the ways in which Palestine solidarity activists are regulated as dissident citizens. York, a major English-speaking university, is located in Canada's most populous city and is the third largest university in Canada. The university has also been the site of extremely high profile cases of conflict over the Israeli occupation, with York being described as a long-time hub for Israel advocacy organizations (Freeman-Maloy 2009). Events and conflicts at York pertaining to Israel-Palestine have sparked national and international attention, leading to the unprecedented step of the Canadian Association of University Teachers (CAUT) publishing a stand-alone book on questions of interference in a SSHRC-sponsored academic conference held at York University on different state models and the resolution of the Israel-Palestine conflict.

In addition to being a space of contentious campus politics on Israel-Palestine, York University is also politically contradictory. As Freeman-Maloy (2009) notes, York is often characterized as left-leaning or progressive in terms of its social science departments, an image set within the reality that universities are institutions built upon profound, diverse and interacting hierarchies. Nonetheless, on the York University campus, there is a climate where many students and other members of the campus community feel that they are able

to make significant contributions to dissident political initiatives both on campus and in the city of Toronto (Freeman-Maloy 2009). For example, on campus there is a very active union movement, as well as an extended history of labour disruptions or strikes by unionized teaching assistants, graduate assistants, contract faculty and faculty. Furthermore, at York there is a strong contingent of global justice activists or activists – individual students, student groups and faculty - contesting the globalization of capital, as well as an organized anti-imperialist and anti-war contingent (O'Connor 2009, 44).

However, the political contradictions of York University surface strongly in the case of Israel-Palestine, where you see institutional and structural support for Israel advocacy organizations, vibrant activism supporting Palestinian human rights and anti-oppressive politics, and active and organized resistance to this activism on the part of Israel advocacy organizations, affiliated student groups, and also the university's administration. These political contradictions are heightened given the strong Zionist presence in the City of Toronto, which has an active branch of the Jewish Defense League (JDL). At the university level, Palestine solidarity activists emerge as dissident university citizens.

The post-September 11 period on York University campus can be divided temporally into three periods of intense activity with respect to the politics of Israel/Palestine: 2003-2004, 2005-2006 and 2008-2009. In each of these periods, heated confrontations took place between self-identified Zionist student groups supported by off-campus Israel advocacy organizations and student groups advocating for Palestinian human rights and the end of the occupation (O'Connor 2009, 2). Clashes tended to erupt around the invitation of contentious speakers to campus, as well as in response to the planned activities of student groups, which included, rallies, vigils, and tabling. In addition, a number of consistent forms of regulation

of dissident campus citizens can be traced during these three surges in activity. These included the deployment of university regulations *against* students, as opposed to in protection of them, as well as the regulation of campus space. Both of these forms of regulation were deployed punitively to discipline individual students, faculty or student groups, but also to constrain freedom of speech. Discursively, across these three periods of intense activity, the clashes and the associated forms of regulation were broadly couched in allegations of anti-Semitism.

Period 1: 2003-2004

Just two years after the clash at Concordia, a number of controversial Israeli and/or pro-Israel speakers were invited onto York University campus with some receiving the active endorsement of the university administration. For example, in January 2003, the Jewish Student Federation (JSF) at York University invited the founder of Campus Watch⁸², Daniel Pipes, to speak on campus. While the York Federation of Students (YFS) cancelled the event, then President of the university, Lorna Marsden succumbed to pressure by the Canadian Jewish Congress, moved the event to a gymnasium on campus, imposed a “lockdown” of the building, and brought police officers in to support the campus police (Grainger 2008). Also, in 2003, the University administration permitted the Young Zionist Partnership (YZP) to hold an Israel Defence Forces (IDF) Appreciation Day (O’Connor 2009, 47), and President Marsden herself introduced Natan Sharansky, an Israeli cabinet minister and “human rights activist”, in a Hillel-hosted event. (Yfile 2003; Freeman-Maloy 2007, 25).

⁸² Campus Watch is a website that perpetuates the racial, ethnic and religious profiling of academics who are critical of the state of Israel. The site encourages the monitoring and harassment of profiled academics with the intent of silencing their criticism.

Despite the ongoing oppression and repression of Palestinians, in her introduction, Marsden described the acting Israeli minister as “a symbol for the struggle of human rights wherever people are oppressed” (Freeman-Maloy 2007, 25).

This period was also marked by intense struggles within student government, with self-identified Zionist groups being elected in November 2003 to the YFS with the support of Hillel and conservative political activists (Freeman-Maloy 2007, 25). Progress Not Politics, the slate of students supported by Hillel, won 26 of 31 seats in the university’s student government (Sokoloff 2003, A8). Despite their clear Zionist and conservative links, the slate pledged that by electing them, student council would focus on local issues, not international ones (Sokoloff 2003, A8). While the Progress Not Politics slate would win in a controversial election, the existing council voted not to ratify many of the winners alleging a violation of election rules by overspending on the campaign (Weeks and Alphonso 2004, A10). While fewer than 10% of York’s 41,000 undergraduate students voted in the election, the election and post-election fall-out would be covered in *The Globe and Mail* and *The Toronto Star*, and be framed as a conflict between “Arab” and “Jewish students” (Weeks and Alphonso 2004, A10; Hall 2004, B01).

The defining moments of this period of intense activity on Israel/Palestine revolved around the repression of student protests in Vari Hall, a central gathering place for students on York University campus. This period of protest activity in Vari Hall was also significant in that there was growing and organized solidarity expressed between a number of groups committed to anti-colonialism, anti-imperialism and anti-oppression. On March 5 2003, in response to an anti-war student strike, York University administration called police to campus to arrest the organizers of the protest (Freeman-Maloy 2009). At the time, the

executive director of Hillel of Greater Toronto publicly defended the administration's actions, stating that "...police were needed to protect Jewish students" (Freeman-Maloy 2009).

As O'Connor (2009) describes, one year later, on March 16 2004, the York branch of Solidarity for Palestinian Human Rights (SPHR) worked alongside a network of anti-war and anti-imperialist groups to organize an event in Vari Hall to mark the one-year anniversary of the death of Rachel Corrie, an American Palestine solidarity activist, who was crushed by an Israel Defense Forces (IDF) bulldozer in the Gaza Strip (47).⁸³ Organizers had planned to distribute flyers, set up a mock checkpoint and travel together from York University campus to Caterpillar headquarters to protest the company's role in the ongoing occupation (O'Connor, 2009, 47). In response, approximately 150 Zionists from Hillel and Young Zionist Partnership (YZP) organized a counter-protest for the same day, with non-students being bussed onto campus (O'Connor 2009, 47).⁸⁴ When the counter-protest moved on to gather in Vari Hall, the two groups clashed (O'Connor 2009, 47). This confrontation would receive extensive coverage in the local national media⁸⁵ and following it, the University administration began implementing a series of restrictive measures which regulated

⁸³ At the time, huge international demonstrations were also being held to protest the war on Iraq. Protests in New York would see more than 100,000 participants, more than 2 million in Rome, upwards of 150,000 in Barcelona, and tens of thousands in London (Mawhinney 2004, A11).

⁸⁴ Palter and Oliveria report that Hillel and YZP had organized a "vigil" outside of Vari Hall in which members of the groups wore t-shirts which said on the front, "If I was a suicide bomber", and then on the back, "You'd be dead now" (2004, 1). Hillel was critical of the university administration for not having stopped SPHR from staging the mock checkpoint in which a man dressed as a soldier pointed a fake gun to the head of a girl (Palter and Oliveria 2004b, 1).

⁸⁵ See for example: Emily Mathieu and Louise Brown, "York students clash at protest; Palestinian, Israeli supporters scream and shove - Officials angry that fracas spills into campus building," *The Toronto Star*, March 18, 2004, B03; Caroline Alphonso, "York bans Israeli, Palestinian student activities; Noisy demonstrations lead to limitations on holding of campus events for a week," *The Globe and Mail*, March 23, 2004, A10; Gabe Gonda, "York suspends rival Middle East groups," *The Toronto Star*, March 23, 2004, B07; Ed Morgan, "The limits of free speech on campus," *The National Post*, March 23, 2004, A14.

students' capacity to organize on Israel-Palestine, but ultimately ended up targeting individual Palestine solidarity activists.

SPHR and Hillel had their student group privileges suspended for one week, but the university focused specifically on Dan Freeman-Maloy, a Jewish student and Palestine solidarity activist studying Political Science (O'Connor 2009, 48; Oliveria 2004b, 1). Freeman-Maloy was "rusticated" or not permitted to re-register at York for three calendar years and for that same period of time, he was banned from university premises (O'Connor 2009, 48). The rustication was linked to two specific offences related to his work with the Palestine solidarity group, SPHR (CAUT 2008, page 9). His specific violation was using an unauthorized sound amplification device – a megaphone – as per the *Temporary Use of Space Policy* and the *Policy for Use of Vari Hall Rotunda* (O'Connor 2009, 49; CAUT 2008, 9; Behmard 2004, 1). The university also contended that Freeman-Maloy "contributed to the threat of harm to the safety and well-being of York University community members", and interfered with the "proper functioning" of the university (CAUT 2008, 9).

In implementing these sanctions against Freeman-Maloy, the university departed from its own regulations or legal norms, as pointed out by the York University Faculty Association (YUFA) Executive and the University Senate (CAUT 2008, 9). Freeman-Maloy did not have a hearing with the University Disciplinary Tribunal before his expulsion (O'Connor 2009, 49). In light of this, Freeman-Maloy sought legal counsel and students and faculty rallied around him in novel ways⁸⁶. Based on the active organizing of students,

⁸⁶ For example, 50 concerned students and faculty performed in Vari Hall Rotunda as a megaphone choir (O'Connor, 2009, 50). In addition, more than 20 faculty members in the Department of Political Science wrote a letter to the President of the University, the Executive the YUFA, and the Senate asking them to reconsider Freeman-Maloy's suspension (O'Connor 2009, 50).

faculty, the York University Faculty Association (YUFA), the York University Senate, as well as CAUT, Freeman-Maloy's suspension was eventually rescinded and he was reinstated in July 2004 (O'Connor 2009, 50).⁸⁷

Freeman-Maloy would not be the only member of the York University community to be directly targeted in this period of intense backlash against Palestine solidarity activism. On November 18, 2004, David Noble, a Professor of History at York University, distributed a flyer which argued that pro-Israel interests dominated the leadership of the York University Foundation (YUF), the university's fundraising body (CAUT 2008, 13). Noble's contention was that YUF was influencing decisions made by the University administration, meaning that pro-Israel interests were influencing the university, and that this bias might also be linked to the treatment of student Daniel Freeman-Maloy (Stewart 2010, 48; CAUT 2008, 13). In response to this flyer, Noble was subject to an extremely vigorous backlash on the part of Israel advocacy organizations. The following day, York University, YUF, SPHR @ York, and Hillel @ York issued a joint press release condemning Noble's flyer as "highly offensive", and as singling out "certain members of the York community on the basis of their ethnicity and alleged political views" (Stewart 2010, 49-50).⁸⁸ The Canadian Jewish Congress (CJC) also released a media statement stating that Noble's flyer was anti-Semitic (Stewart 2010, 50). Noble was never informed by the University of the press release (CAUT 2008, 13). Ultimately, the York University Faculty Association (YUFA) filed a grievance on behalf of

⁸⁷ In his ongoing court case, however, Freeman-Maloy won the right to judicial review of his suspension, ultimately suing York President Lorna Marsden for "misfeasance in public office" (Grainger 2008). While the Ontario Court of Appeal did find that a trial was warranted, leave to appeal to the Supreme Court of Canada was denied. Freeman-Maloy eventually reached an out-of-court settlement with the University.

⁸⁸ SPHR @ York subsequently issued a press release on November 24, 2004 recanting its statement in the November 19, 2004 press release (CAUT 2008, 13).

Noble, claiming that the University administration had violated his academic freedom, and had libeled Noble by declaring him anti-Semitic in its press release (Stewart 2010, 50).⁸⁹

Finally, during this period, tight controls over the use of university space would become a prominent way in which dissident students would be regulated. In the fall of 2004, President Marsden released a revised *Temporary Use of University Space Policy and Procedures*. The revised policy included: a new and elaborate application process for booking university space which included very long lead times; a complete prohibition on the use of certain spaces, including Vari Hall Rotunda, the Vari/Ross Link, and The Common and Piazza Italia; extensive power was granted to the university over issues such as “advertising, signage and risk management”; a declaration that York University’s land and properties are private; and, requirements for risk assessments which included prohibitive security and insurance fees (Noble 2005, 30). Particularly given the events to come in 2005-2006, the policy would be identified as a major impediment to freedom of speech and assembly on York University campus.

Period 2: 2005-2006

By 2005, York-based Palestine solidarity activists had mobilized more deliberately with other anti-oppression and anti-imperialist groups, and these alliances would become subject to active repression. On January 20, 2005, York University administration resorted to the use of external force to quell an on campus demonstration organized by the Grassroots Anti-Imperialist Network (GRAIN). GRAIN had organized a demonstration in the Vari Hall Rotunda on the day of United States President George W. Bush’s second presidential

⁸⁹ In 2007, Russell Goodfellow the arbitrator agreed with Noble and YUFA, finding that Noble’s academic freedom had been breached (Stewart 2010, 50).

inauguration. The demonstration of approximately 30-50 individuals was intended to offer members of the York community an opportunity to publicly oppose the Bush administration, as well as protest the ways in which university itself was complicit in war and occupation (O'Connor 2009, 6; Macdonald 2008, 7; CAUT 2008, 2). The protesters' message focused on corporate links and the repression of dissent on campus as examples of the university's complicity in imperialism (O'Connor 2009, 6-7). By choosing to gather on campus, the protesters also knowingly violated regulations which prohibited the use of Vari Hall for protest activities, megaphones and leafleting (O'Connor 2009, 6-7).

The university's administration responded by instructing six hired police officers, paid a total of \$3498.30, to disperse members of GRAIN, leading to the violent removal of some individual protesters, as well as the arrest of one individual and his subsequent hospitalization for injuries he received while in the custody of police (O'Connor 2009, 1; Macdonald 2008, 7). Stanley Jeffers, professor of physics and eyewitness that day, stated that he felt the violence was "clearly instigated by the police" (Siddiqui 2005, A17). Jeffers saw officers pushing, shoving, and grabbing students, as well as two officers wrestling a student to the floor, holding the student down, while a third officer "violently punched the prone student" (As cited in CAUT 2008, 4). The Ontario Confederation of University Faculty Associations questioned the university administration's decision to call the police to "disperse a peaceful demonstration" and it also condemned the "unwarranted" use of force "as evidenced by videotapes" (Siddiqui 2005, A17). Five students were formally arrested at the time yet in the months that followed, all charges were dropped or dismissed (CAUT 2008, 4).

The university issued a media release the day of the protest as well as the following day. The releases stated that the protesters “carried on aggressively and disruptively”, that the police were peaceful, that one officer was assaulted by protesters, and that violence was initiated by protesters against the police (CAUT 2008, 5). The following day, GRAIN and its allies organized a large demonstration where organizers publicly screened videos that challenged the allegations in the university’s media releases by highlighting the violent arrests made the previous day (O’Connor 2009, 13; CAUT 2008, 5). A number of York University community members, including the Canadian Union of Public Employees Local 3903 Executive, the YUFA Executive, the York Federation of Students Executive, and the York University Graduate Student’s Association Executive issued a joint statement criticizing the repression of dissident student activity by the York university administration (CAUT 2008, 6). The York University Senate would also pass a motion condemning the administration’s decision to invite police onto campus (CAUT 2008, 6). As a result of this building of tension and repression of political activity on York University campus, the YUFA requested that the CAUT Executive establish a committee to investigate into issues of free speech and governance at York University. The committee was established in March 2005 and issued its report in June 2008.⁹⁰

Period 3: 2008-2009

The 2008-2009 period marked what appears to have been the most intense and institutionally entrenched regulation of, and mobilization against, Palestine solidarity

⁹⁰ The terms of reference for the Committee were: 1) To determine whether there were threats to, or breaches of right of free expression and academic freedom at York University; 2) To determine whether there were inappropriate governance practices; 3) To make any appropriate recommendations.

activists on York University. While consistent modes of regulation were evident, including the targeting of individual students and faculty members, power struggles over student government, university regulations regarding space and student group activities, as well as the strategic use of media by Israel advocacy organizations, this period also saw heightened and unprecedented attacks on academic freedom and freedom of speech supported, in part, by government intervention.

The February Clashes

In many ways, the campus environment at York University remained the same with a number of rallies and clashes continuing during this period, particularly after the December 2008-January 2009 Israeli attacks on Gaza, or what was termed “Operation Cast Lead”. Standing out in the period were clashes in February 2009. Following an intense campaign where Hillel@York-supported groups attempted to oust the YFS Executive for ostensibly supporting the school’s teaching assistants during a 12-week strike⁹¹ and for passing a resolution in January 2009 which condemned Israeli attacks on education institutions in Gaza and affiliated the students union with the ‘Right to Education’ campaign (Freeman-Maloy 2009), Hillel@York organized a press conference.

As Freeman-Maloy (2009) explains, a number of students critical of the YFS’ support of the strike organized themselves on social media into a group named, “York Not Hostage”. “York Not Hostage” would eventually turn into an initiative spearheaded by Hillel @ York called the “Drop YFS” campaign, a petition drive to impeach the YFS executive (Freeman-

⁹¹ Between November 6, 2008 and January 29, 2009, represented by CUPE local 3903, York graduate student assistants, teaching assistants and contract faculty went on strike. The YFS was supportive and sympathetic with the union (Freeman-Maloy, 2009).

Maloy 2009). The “Drop YFS” drive was strongly opposed by the YFS and allies, including the York University Black Students’ Alliance, the York University Tamil Students’ Association, the Trans Bisexual Lesbian Gays Allies at York, and Students Against Israel Apartheid (Freeman-Maloy 2009).

In response to a closed-door press conference organized by the “Drop YFS” campaign, an ad-hoc protest arose on February 11, 2009 (Freeman-Maloy 2009). Then-president of Hillel@York, Daniel Ferman, shut down the press conference (Freeman-Maloy 2009). Ferman went on to state that he and others were “swarmed” and “held hostage” in their space on campus, requiring university security and the police to escort them out (Cowan 2009, A1). Media reports in the subsequent days and weeks inaccurately reported that protesters were also chanting anti-Semitic slogans (Freeman-Maloy 2009). The day after the cancelled press conference, Students Against Israeli Apartheid@York (SAIA) organized a demonstration that was met with a counter-demonstration organized by Hillel@York and supported and attended by non-campus members of Israel advocacy organizations, including B’nai Brith Canada and the Canadian Jewish Congress (Freeman-Maloy 2009). Students coalesced in Vari Hall, separated by a line of security guards, and protested for an hour (Freeman-Maloy 2009).⁹²

Enlisting the Media

In the eight months following these events, B’nai Brith Canada took out 3 full page ads in the *National Post* alleging that Canadian university campuses generally and York

⁹² For footage of the protests, see <https://www.youtube.com/watch?v=AjEWeZyvSyM>. Accessed February 28, 2016.

University in particular had inhospitable and anti-Semitic environments linked directly to Palestine solidarity activism.⁹³ The first ad appeared two days after the ad-hoc demonstration on February 11, 2009, with a headline reading, “Stop the Hate Fests on Canadian University Campuses” (as cited in Stewart 2010, 52). The ad called on all members of the university community, ranging from university presidents to alumni, to stop Israeli Apartheid Week, as well as the “...ongoing anti-Jewish agitation that has taken root on campuses across the country” (as cited in Stewart 2010, 52). Another full page ad was taken out in the *National Post* by B’nai Brith Canada on June 13, 2009. The ad was entitled “York University Report Card”, and the university was given a failing grade for “ensuring a welcoming and secure environment for all students, providing balanced intellectual academic debate, preventing anti-Israel agitators from spewing hatred,” and “ensuring Jewish students are not marginalized and intimidated” (Stewart 2010, 53). Once again on September 12, 2009, B’nai Brith Canada took out a full-page ad in the *National Post*, this time entitled “Back to School Checklist for Jewish students and friends of Israel” (Nadeau and Sears 2010, 14). The checklist advised Jewish students to prepare to face hate on campus, to expect to be harassed for wearing the Star of David or a kippah, and to expect that “radical students” would stage rallies and call for the “destruction of the State of Israel” (Nadeau and

⁹³ A similar ad had already appeared in *The National Post* in December 2002. The ad, placed by ‘Solidarity with Jews at Risk’ and supported by more than 100 well-known Canadians, stated that an increasing number of Jewish students were intimidated into remaining silent during discussions of the Middle East which sent a chill over University campuses. The ad stated: “The struggle between Israelis and Palestinians has created an atmosphere of intolerance that is pervasive and frightening for many students, especially Jews.” Notably, in response, University executives *rejected* this characterization. For example, University of Alberta Provost and VP (Academic), Doug Owram, stated: “If they [the petition writers] are implying that the University of Alberta, in particular, is somehow complicit in anti-Semitism in some way, then I would need them to provide evidence to that effect.” Robert Kerr, VP (Academic) at the University of Manitoba would state: “I realize that, on a couple of campuses, there have been some instances [of anti-Semitism] lately, but in my history over time, I have not seen it....If the data is there that demonstrates that there is real reason to be fearful, then that would be news to me.” See Higgins 2002, A08.

Sears 2010, 14). Responding to these efforts, in October 2009, over 139 York University faculty and 58 students signed a petition countering the allegations that York University had become a site of profound anti-Semitism (Hamdon and Harris 2010, 72).⁹⁴

Preceding these ads, the media was strategically deployed by Israel advocacy organizations in an attempt to contain and constrain the political activity of Palestine solidarity activists. For example, in the lead-up to Israeli Apartheid Week 2008, 125 professors at the University of Toronto took out a full-paged ad in the *National Post* to condemn the university for allowing the event to proceed (Martinuk 2009, A14). In November 2008, York was also characterized as a site wherein a 'foreign' battle was taking place. In a widely read *Toronto Life* magazine article by Brett Grainger entitled "York's Middle East War", York was described as a place where, exceptionally, "Clashes between pro-Israeli and pro-Palestinian students are better attended than varsity football games" (Grainger 2008, 71). With no mention of the substantive politics informing the clashes over Israel-Palestine, Grainger described York as a "quagmire", where leaders of the opposing groups "...aren't in the business of fostering dialogue on issues of common concern; they're about mobilizing a small, committed core of followers around a shared ideology. This is about politics, and politics is about winning" (Grainger 2008, 74).

Administrative Responses and Regulations: The Attack on Academic Freedom

In response to the events of February 11 and 12, the university issued a number of fines and suspensions. Hasbara@York, a Zionist group, and SAIA@York had their club privileges suspended for 30 days and were each fined \$1000, the maximum penalties

⁹⁴ See <http://www.straight.com/blogra/york-university-professors-and-students-reject-claims-antisemitism>.

allowable for their use of sound amplification devices and other noise makers, and Hillel @ York was fined \$500 (Offman 2009, A7; Hamdon and Harris 2010, 68).⁹⁵ For SAIA, these penalties would be particularly onerous given that the suspension occurred in the lead-up to their scheduled week of events for Israeli Apartheid Week 2009. Identifying the fines as part of a “larger pattern of repression” which targeted those speaking in defence of Palestinian human rights, a group of forty York faculty members mobilized to support the students and made personal contributions to help SAIA@York cover the cost of the fine imposed on the group (Concerned Faculty for Palestinian Human Rights 2009).⁹⁶

Also in response to the events of February 11 and 12th, and as a way to frame the campus politics, York University President Mamdouh Shoukri appointed a Task Force on Student Life, Learning & Community. The mandate of the task force was to “...take a hard look at the current environment on campus, and explore ways that we can promote open debate and the free exchange of ideas.”⁹⁷ Reporting in August 2009, the task force made a number of recommendations, including a focus on fostering “genuine “ dialogue and debate at York through the creation of a *Standing Committee on Campus Dialogue*; prioritizing undergraduate student space for “study” and “social” purposes; ensuring that the procedures

⁹⁵ York University Tamil Students’ Association was also penalized for a separate protest in Vari Hall. The group was suspended for 15 days and fined \$500. See Offman, 2009, A7. In addition, Hasbara Fellowship signatory fined \$250, the Hillel signatory fined \$150, the SAIA signatory fined \$250, and the Tamil Students Association signatory fined \$150 (Rushowy 2009, A03).

⁹⁶ In May 2008, David McNally, a Political Science professor at York received a disciplinary letter from his dean because he had spoken by means of amplification at rally in support of Palestine on York University campus (Hamdon and Harris 2010, 68). Notably, McNally had spoken publicly and using a sound amplification device the previous day, at the same location, but on a different issue; he had not been disciplined for that violation (Hamdon and Harris 2010, 68).

⁹⁷ The task force was convened in response to two major conflicts on York University campus: 1) the disruption of the February 11, 2009 Drop YFS press conference which resulted in the Toronto Police being called to escort members of the Drop YFS campaign off campus; and, 2) the February 12, 2009 demonstrations in Vari Hall, as well as some other incidences of racist graffiti (Report of the Presidential Task Force on Student Life, Learning & Community 2009, 2).

for the booking of campus space are “...fair, not unduly onerous or bureaucratic, and applied in a transparent manner”; and, amending the Student Code of Conduct to include rights and renamed the *Student Code of Rights and Responsibilities*.

Also in the spring of 2009, Hillel of Greater Toronto and Hasbara @ York received support from the United Jewish Appeal (UJA) Federation of Greater Toronto as well as the Canadian Council for Israel and Jewish Advocacy to set up a commission that would “identify trends affecting the quality of life for Jewish students at York” (Stewart 2010, 53). The recommendations from the commission would be presented at the York University Task force on Student Life, Learning and Community, and this example underscores the distinct linkages and funding opportunities pro-Israel student groups had off campus.

However, during this period, the role that administrative barriers would play in containing dissident activity or speech extended far beyond the February clashes. Also in 2009, York professors not formally allied with a pro-Israel or Zionist stance would be targeted even more directly with university legal regulations coalescing with governmental regulation. Organizers of a Social Sciences and Humanities Research Council (SSHRC)-funded conference, “Israel/Palestine: Mapping Models of Statehood and Paths to Peace” [Mapping Conference], were subject to extreme pressure by Israel advocacy organizations, University faculty and executive administration, the media, funding bodies, and ultimately the government. The academic conference would be held at York University in June 2009 and focus on exploring “...which state models offer promising paths to resolving the Israeli-Palestinian conflict, respecting the rights to self-determination of both Israelis/Jews and Palestinians.”⁹⁸ As Stewart (2010) describes, the Canadian Council for Israel and Jewish

⁹⁸ See conference web page: <http://www.yorku.ca/ipconf/index.html>. Accessed February 29, 2016.

Advocacy (CIJA), the Canadian Jewish Congress (CJC), the Jewish Defense League of Canada (JDL) and B'nai Brith Canada all issued public statements condemning the conference, with some referring to the conference as a virulent hate-fest (55). The groups also called on their own members to petition the government, SSHRC, and two other sponsoring universities to withdraw all forms of conference support (Stewart 2010, 55).

In an unprecedented move, less than 3 weeks before the start of the conference, then-Federal Minister of State for Science and Technology, Gary Goodyear, contacted SSHRC and requested that they consider conducting a second peer review to determine whether the conference fully met SSHRC's funding criteria for academic conferences (Stewart 2010, 56; Abu-Laban and Bakan, 2012). In a message sent from Minister Goodyear's Chief of Staff, Phillip Welfard, to SSHRC president Chad Gaffield, Welfard stressed that this "serious" issue could make it difficult for the Minister to recommend increasing SSHRC's funding in the next budget (Canada NewsWire 2009). While the conference did ultimately proceed, organizers faced serious pressure before, during and after the conference.

In light of the extraordinary pressures placed on conference organizers as well as the serious threat posed to academic freedom, particularly given the government interference, the CAUT launched an inquiry into the regulation of the conference after the conference had completed. After the conference, the president of York University, Mamdouh Shoukri, also announced that a separate inquiry would be conducted by retired Supreme Court of Canada judge, Frank Iacobucci.⁹⁹ Iacobucci's report was released in March 2010 and was critiqued

⁹⁹ Iacobucci was asked to: "...review the experience with the planning, organizing and delivery of the 'Mapping' conference; advise on the responsibilities of faculty members and university administrators in relation to conferences of this type, particularly conferences sponsored by the University; and to provide advice on best practices for the successful planning and execution of such events in light of York University policies and procedures pertaining to academic conferences" (Iacobucci 2010, 2).

by Faculty for Palestine in that it did not fully address the pressure faced by conference organizers, and specifically downplayed the role of the administration in attempting to reshape the conference (2010). In addition, the report also did not contextualize the regulation of academic freedom and scholarship on the Middle East as one where scholars are routinely silenced if they are critical of Israeli policies (Faculty for Palestine 2010). Finally, the report was also criticized for its emphasis on “professional responsibility” of faculty members, “civil discourse” and “respect”, standards which go beyond the norm in terms of assessing scholarship through a peer review process, and “constitute prior restraint on academic freedom” (Faculty for Palestine 2010).¹⁰⁰

3.3 CONCLUSION

This abbreviated sketch tracing the post-9/11 organized backlash against Palestine solidarity activists on Canadian university campuses more broadly, and York University campus in particular, has demonstrated how the politics of Israel/Palestine were particularly contentious during this period, and that Palestine solidarity activists were subject to intense and arguably heightened forms of regulation intended to constrain them as political dissidents. If in the post-September 11 context there has been a significant

¹⁰⁰ In 2011, the report inquiring into the regulation of the Mapping Conference was released in the form of a book by Dr Jon Thompson entitled *No Debate: the Israel Lobby and free speech at Canadian universities*. In brief, Thompson found no evidence of anti-Semitism with respect to the Mapping Conference, calling the allegations “...highly dubious, arguably preposterous” (221), and also found that York University and Queen’s university “acted in a manner consistent with the academic freedom article” in their respective collective agreements (220). Thompson also concluded that there was “...government interference in the arm’s length agency SSHRC through the action and statement by Minister Goodyear” and that this interference was “inappropriate and constituted a serious adverse precedent for the independence and integrity of academic research in Canada” (283). In addition, Thompson found that SSHRC had acted “outside its own procedures”, but that there “...was no basis in its policy for it to have demanded a pre-conference account from the grant-holder” (285). Moreover, Thompson noted that the recommendations in the Iacobucci report with respect to academic freedom were “not well-founded and not appropriate for a Canadian university” (295). He cautioned that if implemented, Iacobucci’s recommendations could lead to the serious diminishment of academic freedom at York University, and become a “serious adverse precedent for academic freedom in Canada” (295).

degree of mobilization *against* Palestine solidarity activists as well as a significant degree of mobilization *for* Palestinian human rights, is this intensity of activity and these specific modes of regulation directly or uniquely connected to the events of September 11, 2001? Are there other markers of time which can help to explain the heightened regulation of these citizens who can be characterized as dissident?

For example, as Hamdon and Harris (2010) explain, despite the notable intensity of the backlash against Palestine solidarity activism on Canadian university campuses in recent years, Palestine solidarity work and Palestine solidarity activists have a long history of being targeted by critics (63). Beinlin (2004) reinforces this, suggesting that the dynamics present today are best described as a culmination of a trend that has been going on since the Six-Day War in 1967 (106). Moreover, surges in the intensity of the backlash against Palestine solidarity activists have also seemingly coincided with dramatic increases in illegal settlement activity by the Israeli state, the building of the “separation barrier” between the West Bank and Israel, as well as mounting Israeli aggression during periods like the launching of “Operation Defensive Shield” by Israel in 2002, the massacre in Jenin refugee camp in 2002, the 2006 invasion of Lebanon, the 2008-2009 Cast Lead Assault on Gaza, as well as the 2010 attack on the Gaza Freedom Flotilla and the Mavi Marmara.

Surges in the backlash have also seemed to coincide with some tremendous gains made by Palestine solidarity activists, particularly as the analogy of Israel as an apartheid state has gained more traction and credibility, and the call for an international Boycott, Divest and Sanctions (BDS) campaign has failed to wane and has instead rapidly expanded and gained momentum (Dobbin 2009; Abu-Laban and Bakan 2012). Other key successes in the Canadian context have been: in 2006, the Ontario wing of the Canadian Union of Public

Employees voted unanimously to pass a resolution to support the BDS resolution; the mass mobilization against the Israeli assault on Gaza in December 2008; the January 2009 decision of three student unions at all three Toronto universities to affiliate with the Palestinian Right to Education Campaign After Gaza (Nadeau and Sears 2010, 9), and; the release of the incredibly damning United Nations Goldstone Report in 2009 which found that the state of Israel had breached international humanitarian law in the assault on Gaza in 2008-2009.

Also in January 2009, CUPE's Ontario University Workers Coordinating Committee announced their plan to introduce a resolution supporting a boycott of Israeli academic institutions as part of the international BDS campaign (CUPE, 2009). That same year, the third largest labour federation in Québec (Centrale des Syndicats Du Québec), which represents over 170,000 workers, passed a resolution to support the BDS campaign (Ziadah 2010) and; the 300 delegates to the Québec Solidaire convention voted unanimously to endorse the BDS campaign (Fidler 2009). Also in 2009, Canadian filmmaker and Associate Professor of Cinema and Media Arts at York University, John Greyson withdrew his short film, *Covered*, from the Toronto International Film Festival (TIFF), "in protest against their Spotlight on Tel Aviv program and in solidarity with the Palestinian call for a boycott against the Israeli government" (Greyson 2009). He was joined by a group of prominent writers and filmmakers who posted an open letter to the festival to protest its City to City spotlight on Tel Aviv.¹⁰¹

With that said, Beinín (2004) goes on to note that the backlash against those critical of the occupation has experienced a renewed and assertive vigor after September 11, 2001, where in the 1980s and 1990s, there was more defensive posturing (106). Looking

¹⁰¹ See <http://torontodeclaration.blogspot.ca/>. Accessed February 29, 2016.

specifically at surveillance and the regulation of freedom of expression on the Israel/Palestine conflict, Abu-Laban and Bakan (2012) echo this, suggesting that there is a “qualitatively distinct climate governing actual or perceived criticism of Israeli state policies and/or human rights abuses towards Palestinians” in Canada in the post-September 11 context (319).

Looking at Palestine solidarity activism on York university campus, if a longer timeline can be established that extends prior to September 11 2001, can this tell us something more substantive about the ways in which dissident citizens are consistently regulated and how or why there are changes? In Chapters 4 and 5, I consider the empirical evidence in order to test the assertion that this period of intense regulation of Palestine solidarity activists in the post-9/11 context is uniquely linked to the 2001 terrorist attacks.



Chapter 4: Disciplining Dissident Citizens: The Targeting of Palestine Solidarity Activists through Tactics of Exception

4.1 INTRODUCTION

In Chapter 3, I traced a timeline of the regulation of Palestine solidarity activists in Canada after September 11, 2001. Focusing broadly on Canadian university campuses, as well as on the specific case of York University, I described how the organized backlash against this group of dissident university citizens was notably intense during this time period. I cautioned, however, that the intensity of activity on Israel/Palestine, as well as the specific modes of regulation employed to 'reign in' Palestine solidarity activists are not clearly or simply linked to the events of September 11, 2001. This chapter is one of two that considers the empirical evidence in order to test assertions that the period of intense regulation of Palestine solidarity activists in the post-9/11 period is uniquely linked to the 2001 terrorist attacks. In Chapters 4 and 5, I analyse York University's community newspaper, *Excalibur*, over a 30-year time period (1980-2010), along three key dimensions: governing through exception (Chapter 4), governing through crisis and security (Chapter 5), and governing dissent (Chapter 5). While dominant narratives might focus on the 'newness' or exception of this as an example of the intense regulation of dissident citizens, the starting point for this case study emphasizes that Canadian citizenship has historically been precarious for certain groups of dissidents, and that the lineage of this particular anxiety far predates events that are conventionally described as fundamental ruptures. In this chapter, I argue that before and after 9/11, there are significant continuities in the regulation of Palestine solidarity activists through notions of the exception, particularly with respect to the ways in which discourses of exceptional victimhood and entitlement adhere to the state

of Israel and ultimately narrow the scope of resistance available to those critical of the occupation. Further, the specific, historical and strategic mobilization of the exception by Israel advocates demonstrates why in the contemporary period, the apartheid analysis adopted by Palestine solidarity activists is deemed particularly threatening.

4.2 FINDINGS

The analysis in Chapters 4 and 5 is based primarily on an archival search of *Excalibur*, York University's community newspaper¹⁰². The *Excalibur* has been published since 1964, and has functioned as an independent, student-run publication since 1966. The main focus of the paper is to provide coverage of news and current affairs, student affairs, arts, and sports, as they pertain to the York student population. My analysis is based on relevant news coverage between September 1980 and April 2010.¹⁰³ The article pool was constructed by visually scanning the newspapers for a number of keywords. These included: Israel and all derivatives; Zionist and all derivatives; Palestine and all derivatives; Apartheid; Middle East and all derivatives; Arab-Israeli and all derivatives; Boycott; Divest and all derivatives; Jewish; Muslim; Anti-Semitic/Semitism; Academic Freedom; Freedom of speech; Freedom of expression. The full article search yielded 2135 news articles, editorials, letters to the editor, advertisements and event listings. The search excluded all classified ads, sports and comics/cartoons.

As a text, student newspapers are complicated sites of analysis. Other sources of information about the university community include alumni magazines, formal statements

¹⁰² *The Excalibur* is only one of several student newspapers on York University campus, however the others are smaller papers affiliated with individual York University colleges.

¹⁰³ Archival copies of the *Excalibur* are housed in *The Excalibur's* main office on York University campus, as well as in Scott library at York University campus. There is no agreement between *The Excalibur* and the library to keep archival copies of the paper.

or releases by the university administration, as well as sources external to the university, such as news media. Student newspapers are complicated in that unlike major public and private news providers, the editorial board of a student newspaper can change as frequently as once a year or more. In addition, student newspapers may be run independently from the university but may still be subject to certain university rules or pressures by the administration, and the readership of the paper experiences much more frequent rates of turnover than other more conventional news sites. Student newspapers can also be exceedingly political in terms of editorial composition, with groups of students vying for control over the medium, and with the newspapers themselves competing with other campus news sources.

Nonetheless, student newspapers offer an opportunity to track issues that resonate with certain groups of students; issues that might not be tracked elsewhere, especially those relating to contentious on-campus politics that may shed a less than desirable light on the university itself. In this sense, as a text for analysis, student newspapers are sites of contradiction. They are simultaneously open yet closed spaces, sites of intense power struggles, and a forum that can have a powerful disciplinary impact or in some cases a completely negligible one. Consequently, while what these texts can tell us is partial, they can help to excavate submerged or seemingly lost events or discourses, as well as illuminate shifts in the ways in which students coalesce as a community of citizens, and the ways in which members of the university community are regulated and by whom. Consequently, in terms of "...content, structure, presentation, omission, delivery, patterns, etc., [these texts] can be read for their ideological motivation and be used to 'map the social'." (O'Connor 2009, 3).

The remainder of this chapter draws from the news articles generated in this search of the *Excalibur* to map out particular trends of continuity and discontinuity with respect to the regulation of Palestine solidarity activists on York University campus. In this chapter I focus on the ways in which Palestine solidarity activists are governed through notions of the exception.

4.3 GOVERNING THROUGH EXCEPTION

Drawing on Foucauldian inspired governmentality analyses, key critical race interventions, as well as Agamben's (2005) notion of governing through exception, this section focuses on the way in which notions of the exception are consistently deployed across the study period in order to regulate and contain Palestine solidarity activists as they engage in dissident political work. In particular, across the study period, the legitimating weight behind the characterization of Israel as an exception relies on two moves: the treatment of anti-Semitism as exceptional, and the characterization of Israel as the 'collective Jew'. This is consistent across the study period. What does shift, however, are the strategies of resistance and mobilization employed by Palestine solidarity activists. As such, the weight of the exception culminates, in this study, in a well-organized and intense backlash focused specifically on countering the apartheid analogy, where Palestine solidarity activists and others use the term apartheid to describe the practices and policies of the state of Israel.

4.3.1 Israel as an exception

Across the thirty year time period studied, the state of Israel is consistently cast as exceptional or as an exception. Put differently, Israel is projected as both victim and entitled, narratives that do different but mutually reinforcing work in terms of their disciplinary and regulatory impact on Palestine solidarity activists, supporters of the state of Israel and even

those campus members not actively engaged in the politics on this issue. In this sense, the characterization of Israel as an exception has more than discursive consequences. In the case of the regulation of Palestine solidarity activists as dissident citizens, the connection between governance and treating Israel as exceptional is accomplished in two key moves. First, anti-Semitism itself is treated as *sui generis*, and second, the state of Israel is personified as the “collective Jew”. It is through these discursive moves that casting Israel as the exception lends power and weight to accompanying regulatory strategies, and also is suggestive of why the apartheid analogy is so profoundly disruptive and invokes such a vigorous backlash by Israel advocacy organizations.

Anti-Semitism as exceptional

With respect to the first move, the positioning of anti-Semitism as exceptional (in that it is uniquely widespread and severe), runs contrary to dominant discourses which tend to submerge racism by treating racism itself as exceptional (in that it is exceptionally rare). Here, anti-Semitism is portrayed as a unique historical norm at the same time that it is portrayed as an exceptionally severe or potent form of racism. Cited in one article, York Professor Irving Abella states that, “No fire is so easily kindled as anti-semitism” (Fluxgold 1982, 3) a statement which, at a minimum, potentially diminishes the gravity of historical and ongoing colonialism in the Canadian context. Anti-Semitism is variably described as a spreading “cancer” (Dehmann 1982, 5), an “insidious disease” (Abdul-Massih 1990, 6), and a hatred rooted in part in a “deep age-old animosity, expressed by the Islamic world towards the Jewish people” (Zaionz et al. 1990, 6). This “hate and radicalism” has “plagued the Middle East for generations” (Zaionz et al. 1990, 6). On York University campus itself, anti-Semitism

is described as a “pretty serious problem”, a “growing problem”, but also one that is ever present (Julia Nicholson as cited in Goldman 1992, page 4).

The pitch of the descriptions of anti-Semitism is heightened in the post-9/11 context. In one letter to the editor, Tanentzap speaks of a “rising anti-Semitism” that is linked to “islamofascist front groups at York” (Tanentzap 2006, 10). It is in this context where campaigns against “Israel and all things Jewish” – characterized as one and the same – are increasingly “brazen” and “aggressive” (Tanentzap 2006, 10). In addition, in the post-9/11 period, articles and letters in the *Excalibur* often stress the experience of *insecurity* of Jewish or Zionist students – also characterized as one and the same. This new engagement with the language of ‘in/security’ is significant in that it represents an adoption of the post-9/11 security discourse but also introduces a vocabulary of risk in an increasingly neoliberal and risk-averse institution, a point to which I will return later.

So exceptional is the characterization of anti-Semitism that even in the highly charged post-September 11 climate where the intensity of anti-Muslim racism is quite clearly heightened and well-documented, the *Excalibur* devotes space to an article about a *former* York University student being the victim of an anti-Semitic hate crime *in Los Angeles*; the suspects are identified as having Muslim names (Oliveria 2002b, 1). Similar dynamics are apparent in the pre-9/11 period. Andil Gosine comments on this in a 1994 article regarding “reverse discrimination” and “political correctness”. He writes: “People pound on any hint of anti-Semitism or anger against Whites in light [*sic*] stories but forcefully defended rights [*sic*] to hate gays and promote racism against Blacks.” (Gosine 1994, 5). And, so exceptional is the characterization of anti-Semitism that by 2009, Hasbara @ York would create its own task force to examine, frame and monopolize the conversation on racism, anti-racism and

discrimination against Jewish students on York University campus. The *Excalibur* reports that in response to the *Report of the Presidential Task Force on Student Life, Learning and Community*, B'nai Brith Canada and Hasbara@York¹⁰⁴ took exception to the report's failure to specifically mention anti-Semitism, finding that the report did not fully address the intimidation and harassment faced specifically by Jewish students on York University Campus (Birukova 2009, 1; Birukova 2009, 3).¹⁰⁵ In response, Hasbara@York formed its own task force to deal with the issue of discrimination against Jewish students (Birukova 2009, 3), a task force which would subsequently submit a report to the problematic CPCCA.¹⁰⁶

In part, this is because anti-Jewish racism *is* objectionable and the history of anti-Jewish racism and the horrors of the Holocaust *are* extreme, significant and in many ways unique. In this sense, in and of itself, this move would not necessarily be significant. However, in the context of York University, the *Excalibur* illustrates the way in which there is minimal history of solidarity, and in fact a history of antagonism, between York campus-

¹⁰⁴ In 2001, the right-wing Zionist organization Aish Ha Torah and the Israeli Foreign Ministry started Hasbara Fellowships, a program focused on training students residing outside of Israel on how to promote a positive image of the state of Israel. The program characterizes North American university campuses as "battlegrounds", and the Centre for Israel and Jewish Affairs provides financial and other support to student groups that are committed to advocating for the state of Israel. See Levitan 2015.

¹⁰⁵ The report focused on five common concerns raised by a variety of students and student organizations through a process of consultations: "...excessive confrontation between student groups (with the involvement of non-York community members); the need for more opportunity for meaningful dialogue and debate; the role of York Security Services and the appropriate enforcement of University policies; the need for better communication; and the need for more student space" (Presidential Task Force on Student Life, Learning and Community 2009, 6). The report did note at the University, there is a perception that the institution "...is not paying adequate attention to issues of relationships between ethnic [*sic*]/cultural groups on campus" (18). To this end, amongst other organizational changes, the report recommended that an officer be charged with dealing with anti-racism training and cultural awareness (18), and that all members of the university community engage in anti-oppression training (19).

¹⁰⁶ It is interesting to note that initially, Hasbara@York and Hillel@York are reported as being largely satisfied with the report. This was contrary to B'nai Brith Canada, which Birukova writes does not reflect the views of the entire Jewish community and especially those of Hillel@York (Birukova 2009, 1). Birukova also reports that United Jewish Appeal stated they were happy with the report given that the task force did hear the concerns of Jewish students (Birukova 2009, 1). The decision of Hasbara@York to create its own task force because the Shoukri task force was insufficient would follow over one month later (Birukova 2009, 3).

based Zionist groups and other groups on campus engaged in anti-racist politics. This is significant because the *Excalibur* vividly demonstrates that York University campus has been a profoundly unequal space. For example, in an extensive piece in the fall of 1992, the paper details how the offices of the university administration were stormed by 300 students in the spring of 1992 (Excalibur 1992, 11). Reacting to a series of racist incidents directed against black students by York University security guards, the protesters took control of the administrations' offices for 3 hours and submitted an 8-point plan to stop and prevent the ongoing racism and harassment by York University security as well as by bouncers at a popular campus pub (Excalibur 1992, 11). After an initial refusal by the director of York Security to launch an investigation into the allegations of racism, an investigation was subsequently launched, and nine months after the protest, all 8 of the protesters' demands had been implemented (Excalibur 1992, 11).¹⁰⁷

As early as 1981, the secretary of a student group called the All Students Union Movement (ASUM) writes to the *Excalibur* that the group regretted approaching the JSF to endorse an Anti-Racism Symposium they held (Jancaur 1981, 5). The ASUM lists JSF activities, such as the sponsoring of a Symposium on Terrorism as being in conflict with the "democratic principles" of the ASUM (Jancaur 1981, 5). Two months later, Monastyrsky reports that the CYSF censured the ASUM for "excluding the Jewish Student Federation from their 'Week Against Racism'", a move which the JSF argued implied that the JSF was a racist

¹⁰⁷ In another example, Amber reports on the racism in the YFS general election campaigns in 1991. During this campaign, Ziad Hafez, a candidate of Syrian descent, is reported as having had his posters defaced with racist comments, including swastikas and graffiti comparing him to Saddam Hussein and Bashar al-Assad). Hafez says: "I have been a victim of racism I have been humiliated by the entire system at York" (Amber 1991, 3). He describes how he was urged not to run in the elections by his friends "because of the image of Arabs as a result of the Gulf crisis" (Amber 1991, 3). Chia-Yi Chua, chair of the Student Centre Corporation, said he decided not to run for YFS President because of the many racist comments that had been directed at him during the year. (Amber 1991, s3).

organization (Monastyrsky 1982, 3). The nature of the conflict between the JSF and the ASUM becomes more clear as the political commitments of the ASUM are voiced in a letter written by the ASUM Executive responding to allegations that the group “publishes propaganda which perpetuates racism at York” (Pearlman 1982, 5). In the ASUM letter, the executive notes that in the previous year they had passed a resolution condemning all forms of racism, including anti-Semitism; in addition, the group passed a resolution supporting the Palestine Liberation Organization as the “legitimate representatives of the Palestinian people” (ASUM Executive 1982, 5).

This lack of collaboration is evident again in 1983 when York student groups voice opposition to a new University policy banning events from a York space called the Bearpits. The JSF distributed a memo requesting that other groups support their opposition to the regulation of space, but Symons reports that other organizations, including the York Association for Peace and the York University Faculty Association decided to act independently of the JSF (Symons 1983, 1). A similar dynamic is apparent in 1992 when the JSF initiated a petition demanding that Ernst Zundel be criminally charged for Holocaust denial (Montesano 1992, 4). The JSF also supported a coalition of student clubs in some type of action against Zundel (Montesano 1992, 4). Montesano reports that four clubs – the Pakistani Student Federation, and the Muslim, Arab and Iranian student groups - voted against the club coalition action on the basis that the JSF had been uncooperative with initiatives by other clubs in the past (Montesano 1992, 4). Montesano cites a member of the Pakistani Student Federation: “All clubs want to support the petition because it’s against racism and bigotry but there are problems because of who it’s coming from....in the past,

there has been some instances between the JSF and other groups where there hasn't been mutual support" (Montesano 1992, 4).

In 1982, in response to a letter written by a Jewish student criticizing the JDL for interrupting a film screening organized by the York University Palestine Education Committee (Sussman 1982, 4), the Director of the York chapter of the JDL scolds "black students who supported this rubbish" (Ben Israel 1982, 5). The director misquotes Dr Martin Luther King Jr., and asserts that black students should "concern themselves with black rights instead of expressing 'solidarity' with murderers and terrorists who call themselves a 'liberation' movement (Ben Israel 1982, 5).

Or, in response to a sheep being chained to a railing at a central York University building with the words "Raped by PLO" printed on it, the CYSF Director of Women's Affairs stated that the incident was "...a cowardly act. It was a provocation. It reminded me of the massacre in Lebanon", in reference to Sabra and Shatila where Palestinian civilians were massacred in 1982 (Bailey 1983, 3). Where the year prior, active mobilization had occurred in order to name and shame a student representative who had used CYSF resources to photocopy anti-Zionist posters, the nature of the mobilization is qualitatively different. In a letter to the editor from a student self-identified as Jewish, Zettel criticizes the Director of Women's Affairs as being politically biased and unable to "properly align priorities" (Zettel 1983, 5). Another student who self-identifies as Jewish writes that he is "absolutely disgusted" by the remarks of the Director of Women's Affairs, encouraging the York electorate to not vote for her in the upcoming CYSF elections (Ben Israel 1983, 7). Karen King also writes a letter, calling the director "insensitive" as well as calling for her impeachment (1983, 11). Or, in response to criticisms that he did not spend equivalent time

and energy investigating this incident in comparison to the “zeal” he demonstrated in criticizing Bipin Lakhani, Mark Pearlman, the CYSF Director of Academic Affairs writes: “I really don’t care. i.e. Piss off.” (Pearlman 1983, 5).

This lack of solidarity between Zionist student groups and other campus-based anti-racist groups would be apparent in the latter period as well. For example, in the aftermath of the 9/11 terrorist attacks, a rally would be organized in support of the Coalition Against War and Racism. Here, over 100 students and faculty gathered in Vari Hall in October 2001 to draw attention to US colonial imperialism, threats to civil liberties, and hypocrisy of the mainstream media (Aldini 2001, 3). In November 2002, a university-wide walkout was staged by Now End War and Sanctions on Iraq (NEWS on Iraq). Again, the focus of the protest was on US colonial imperialism, as well as the impact of US foreign policy on Canada (Oliveria 2002a, 1). In February 2003, following a motion passed by the Pan-Canadian Student Anti-War Conference, a student day of action was held and supported by Students Against Sanctions and War on Iraq, the National Youth and Students’ Peace Coalition, NEWS on Iraq, the York Graduate Students Association, CUPE 3903, and the Muslim Students’ Federation. Despite the attention paid to anti-racism in the form of a focus on anti-Semitism, York-based pro-Israel groups are not listed as allied in these protests, as well as in subsequent anti-war protests, or in protests regarding the rights to free speech and the freedom of dissent. In fact, in January 2003, the presidents of the Young Liberals, Progressive Conservative Campus Association, Canadian Alliance Association and Young Zionists Partnerships would pen a joint letter in the *Excalibur* urging for a “moral and just war” against Saddam Hussein (Oliel et al. 2003, 8).

Exceptionalism and the Holocaust

As might be expected, much of the attention paid to characterizing anti-Semitism as exceptional focuses on the horrors of the Holocaust with the stress being on the “extraordinary” nature of the “...events that caused the destruction of European Jewry and the slaughter of millions of others” (Ungerman 1980, 7). The heightened nature of this narrative is captured in one letter to the editor:

The Holocaust is a terror that is implanted into every Jewish soul, not only for the generation that lived it, but for each subsequent generation. In many ways, all Jews have adopted survivorship – our mere existence is a legacy of resistance to persecution. Genocide remains a topical and tangible issue for Jews and all society today... (Nemerofsky et al. 1996, 13).

In at least two significant instances, one before 9/11 and one after, those recognizing the Holocaust explicitly reject any attempts to draw links between this genocide and others. For example, in one incident, the Vice President of the JSF writes that he witnessed a Holocaust denial incident at a campus-based event hosted by the Muslim Student's Federation (MSF) (Benchimol 1998, 9). According to the Vice President, a speaker at the event downplayed the Holocaust, referred to it as a “hoax”, and problematically suggested that Palestinians were suffering “because of the Jews” (Benchimol 1998, 9). Upon clarification by a member of the Office of Student Affairs as well as non-affiliated students writing in to the paper, while members of the audience objected to some aspects of the presenter's talk, the MSF speaker did not make a Holocaust denial statement (Legris 1998, 7). The JSF appeared to reject the MSF's apology for their speaker because in addition to apologizing, the group also pointed out that claims of genocide cannot be “monopolized” by any one group (Quirk 1998, 7). In another letter to the editor, a non-JSF or MSF affiliated student explained that the speaker had simply acknowledged the oppression of Palestinians

and stated that to fail to acknowledge their oppression would be equivalent to alleging that the holocaust was a hoax (York Student 1998, 11). Strategically, elevating the Holocaust to *the* exception and distorting the presentation of the MSF speaker lent weight to the disciplinary regulations the JSF wanted imposed on the MSF, in this case a desire to bar and monitor future MSF guest speakers (Legris 1998, 7).

Eight years later, at a Hillel-hosted event during Holocaust and Genocide Awareness Week, guest speaker Steven Katz, a professor from Boston University specializing in Jewish history, claimed that the colonization of Indigenous people and the ongoing repression and oppression of Palestinians could not be considered acts of genocide because there was no intent to completely a destroy these groups, and the killing was not “one-sided” (Hussain 2006, 8). The report on Katz’s talk would be followed up by numerous letters to the editor which contested any attempts to identify the oppression of Palestinians as genocidal (Lackshin 2006, 9; Houldin 2006, 10; Katz 2006, 11) Here, the exceptionalism of the Holocaust trades on a disavowal of Indigenous land and Palestinian land, at the same time that it denies possibilities for politicized resistance.

In stressing the exceptionalism of the Holocaust, two consistent themes are evident in *The Excalibur*. First, the Holocaust should not be forgotten “...or it will happen again” (Ungerman 1980, 7). As expressed in one editorial, “Knowledge of the past is essential - it is an obligation that cannot be shirked if future catastrophes are to be avoided.” (Editorial 1987, 6). The tension here is notable given that recognition of the Holocaust is identified as important in order to prevent parallel atrocities, while at the same time as noted above, other atrocities are denied similar designations of gravity.

In a few different ways, this responsibility or obligation to acknowledge and remember the Holocaust is stressed over the entire 30-year study period. At the most basic level, heightened attention is paid to events memorializing the Holocaust as well as events focusing on anti-Semitism. For example, between 1980 and 2010, at least 30 event advertisements or event profiles focusing on the Holocaust are in the *Excalibur*. Over that same time period, there are 3 event advertisements or event profiles which focus on anti-Muslim racism, the first of which appears in 2004. In terms of substantive writing referencing anti-Semitism, 102 articles focus on the gravity of anti-Semitism, 10 focus specifically on anti-Muslim racism, and 71 challenge the focus on anti-Semitism directly or indirectly. What is significant here is that the attention paid to anti-Semitism is consistent throughout the study period, whereas after 9/11, there are more consistent challenges to the characterization of anti-Semitism as exceptional.

Also between 1980 and 2010, the *Excalibur* provides coverage of ten themed awareness-related weeks that are either hosted by York Jewish student groups or pertain to Judaism, Jewish people, the state of Israel or the Holocaust. These weeks include: Jewish Awareness Week (1980); three Israel themed weeks, including Israel Day (1982), Israel Week (1983, 1987, 1988, 1989, 1991, 1995, 2001), and Israel Fest (2004); three Holocaust themed weeks, including Holocaust Awareness Week (1987, 1999), Holocaust Memorial Week (1990, 1991), and Holocaust Education Week (2002, 2003, 2006), as well as; Soviet Jewry Week (1988) and Know Radical Islam Week (2006). *Excalibur* coverage of themed weeks after 2006 is focused almost entirely on Israeli Apartheid Week (2006, 2008, 2009, and 2010), signalling a shift in the nature of the conversation with respect to Israel/Palestine, a shift with respect to who is able to frame the conversation on campus and

in the pages of the *Excalibur*, or a shift in where Israel advocacy organizations are focusing their energy.¹⁰⁸

The attention paid to memorializing the Holocaust does not go unchallenged. For example, in one letter to the editor challenging the attention paid by the *Excalibur* to Holocaust Awareness Week, Khouri states that the paper has neglected that:

The Arab people today live a curious life. In Israel where one million Palestinian Arabs live under occupation or Iron Fist Policy, have [*sic*] been intermittently tortured, harassed, killed and persecuted. Why? Because they are Palestinian whose crime is they are proud of being Palestinian and they defend the rights of the Palestinian people for self-determination. (Khouri 1987, 11).

Khouri goes on to challenge the specific focus on anti-Jewish racism, noting that “Anti-Semitism wherever it occurs should be combated whether it is anti-Jewish or Anti-Arab.” (Khouri 1987, 11) Abrash reiterates Khouri’s observation regarding the oppression of Palestinians in the state of Israel, describing Israel as a “brutally repressive apartheid regime” (Abrash 1992, 4). In each of these cases, those challenging the exceptional attention paid to anti-Semitism, are met with a vigorous backlash in the letters pages of the *Excalibur*.

The second consistent theme over this 30-year time period is that the state of Israel is explicitly linked to compensating for horrors of the Holocaust. The state is described as the historical and contemporary refuge for Jewish people escaping rampant and extreme anti-Semitism. For example, in a column about the Israeli invasion of Lebanon, Buchbinder writes that many Jews who object to public criticism of the state of Israel by other Jewish people “...[invoke] the memory of the holocaust and [suggest] that Jewish survival is at stake”

¹⁰⁸ Over the study period, other themed awareness weeks that are covered in some capacity include: Islamic Week (1990), Arabic Week (1991, 1992), Islam Awareness Week (1996), Multicultural Week (2003), Palestinian Awareness Week (2003), Peace Week (2003), Israeli Apartheid Week (2006, 2008, 2009, 2010), and Islam Awareness Week (2008).

(Buchbinder 1982, 4). To this end, in his letter to the editor, Corey Ross masterfully expresses Israel's founding mythology: "...Israel, arose from an incredibly optimistic vision: a vision that a dispossessed and tortured people could form a modern nation in a desert. Based on that vision, Holocaust survivors came to Israel's shore aboard tiny boats, and created simple towers to drink and irrigate from – create a miracle on the barren sand dunes." (Ross 1994, 13). He goes on to note that in the year since the 1992 Oslo accord was signed, we have "...witnessed the biggest massacre of Jews outside Israel since the Holocaust." (Ross 1994, 13).

The not so 'new anti-Semitism'

Given that the Holocaust was a horrific atrocity, how and why does this discursive appeal to exceptionalism matter when thinking about the regulation of Palestine solidarity activists as dissident citizens? As a baseline, what emerges as significant in the pages of the *Excalibur* is that there is a discernible shift wherein the Holocaust, specifically its characterization as exceptional, is progressively and strategically linked to the politics of Israel/Palestine as a way to diminish and delegitimize the claims of Palestine solidarity activists and Palestinians themselves. How is this accomplished? Supporters of the state of Israel describe a 'new anti-Semitism' that builds upon or, in part, supplants an 'old anti-Semitism'. In a 2009 working paper for the Institute for the Study of Global Antisemitism and Policy, a long-time Canadian Member of Parliament, Irwin Cotler, writes that we are witnessing "...a new sophisticated, globalizing, virulent and even lethal Antisemitism, reminiscent of the atmospherics of the 30s, and without parallel or precedent since the end of the Second World War." (Cotler 2009, 5). Cotler goes on to describe "classical or traditional Antisemitism" as "...the discrimination against, denial of, or assault upon, the

rights of Jews to live as equal members of whatever host society they inhabit.” (Cotler 2009, 4). The ‘new anti-Semitism’ “...involves the discrimination against the right of the Jewish people to live as an equal member of the family of nations - the denial of, and assault upon, the Jewish people’s right even to live - with Israel as the ‘collective Jew among the nations’.” (Cotler 2009, 5).

Abu-Laban and Bakan (2012) add at least two dimensions of complexity in thinking about Cotler’s binary of ‘old’ and ‘new’ anti-Semitism. First, actual use of the term anti-Semitism has been variable, but has tended to refer to three distinct forms of expression: anti-Semitism as anti-Jewish racism, anti-Semitism as anti-Judaism, and anti-Semitism as the ‘new anti-semitism’ (Abu-Laban and Bakan 2012, 322-323). Second, this third form of expression of anti-Semitism – the ‘new anti-Semitism’ – focuses not on racial or religious prejudice but is *strategically and politically motivated* to insulate the state of Israel from critique of its policies and practices that are specifically related to its repression of Palestinians, and Palestinians’ claims to self-determination (Abu-Laban and Bakan 2012, 323). Yet, adding to this observation that deploying the ‘new anti-Semitism’ is strategic and politically motivated is the observation that the ‘new anti-Semitism’ does not simply replace the ‘old anti-Semitism’. This constitutes the moral weight leveraging allegations of the ‘new anti-Semitism’.

In this way, accompanying allegations of anti-Semitism is the threat of risk of sanction to critics of the state of Israel because anti-Jewish racism itself *is* objectionable. To be sure, anti-Jewish racism *does* exist, and the *Excalibur* does, to some degree, track this. For example, in a profile of a Jewish and Zionist student activist, Lefko writes:

...when I brought up the hate slogans that creep up periodically at York, he gives a wistful sigh. ‘The first time I walked through the

tunnel and saw a slogan to the effect of 'Jews must be eliminated,' I felt personally threatened. 'Officially, we took steps to make the administration aware of the situation, to increase security, so people could walk around without feeling afraid....The slogans are the work of a small segment of the York population. Just the same there is the threat of a small group dominating a large mass of society.' (Lefko 1980, 11).

Or, in 1982, Schmied writes that the JSF sent a memo to the Director of York Security informing him of at least 6 anti-Semitic acts, ranging from violence in the graduate residence, telephone and letter bomb threats, as well as hate literature in the JSF mail (Schmied 1982, 1). Racist graffiti is also reported on throughout the study period (Todd 1982, 3; Greene 1990, 11; "Security Beat" 1990, 2; "York Briefs: Swastikas found on campus" 1992, 3). Moreover, until the early 1990s, coverage of Holocaust-related news or events is tied most directly to discussions of Nazism and the anti-Jewish racism of far-right fascists.¹⁰⁹ This focus is particularly strong in the 1980s and early 1990s given the attention paid in Canada to the hate speech trials of John Ross Taylor of the Western Guard¹¹⁰, Ernst Zündel¹¹¹ and

¹⁰⁹ See for example: Halpern 1980, 3; Ungerman 1980, 7; Bercovici 1980, 9; Ben Israel 1982, 4; Editorial 1983, 4; Michaelwon 1985, 7; Goldberg 1985, 9; Armstrong 1986, 11; Editorial 1987, 6; Iacoe and Vecchiarelli 1990, 5; Prutschi 1992, 3; Goldman 1992, 4; Montesano 1992, 4; Cheifetz 1993, 3; Klein 1993, 4; Hermalin 1993, 5; Chiose 1993, 5; Conley 1993, 7; Levy 1993, 5; Camfield 1993, 11; Shessell 1993, 1; Stephens 1994, 3; Soukoreff 1994, 5; Alford 1994, 11; Livett 1994, 15; Aguiellera 1994, 3; Bansal 1994, 7; Ludwig 1994, 7; Lipton 1995, 13; Bansal 1994, 3; Anonymous 1994, 13; Dale 2005, 1.

¹¹⁰ John Ross Taylor was a founding member of the Western Guard, a white supremacist political party. In 1979, complaints were filed against Taylor with the Canadian Human Rights Commission. Taylor and the Western Guard Party were alleged to have repeatedly communicated via telephone messages which were "likely to expose Jewish people to hatred and contempt." These messages were found to violate section 13(1) of the *Canadian Human Rights Act*. Despite a cease and desist order, Taylor and the Western Guard Party continued to communicate these messages and were found guilty of contempt of court, whereupon Taylor was imprisoned for one year and the Western Guard Party was fined. Taylor and the Western Guard Party continued to communicate hate messages via telephone and in 1983 argued that section 13(1) of the *Canadian Human Rights Act* violated the guarantees of freedom of expression in the *Charter*. The Federal Court Trial Division, Federal Court of Appeal and Supreme Court of Canada all rejected this claim. See Canadian Human Rights Reporter, 1990.

¹¹¹ In 1984, Ernst Zundel was charged under the *Criminal Code*, section 181, for spreading false news by publishing a Holocaust-denial flyer. Zundel would be found guilty by two juries but would appeal his case to the Supreme Court of Canada on the basis that section 181 of the *Criminal Code* violated his guarantees of

Jim Keegstra¹¹². Despite this focus, over the study period, links are still made between rising anti-Semitism and those advocating for Palestinians' right to justice and self-determination.

However, the tension between linking the 'old' and 'new' anti-Semitism while simultaneously differentiating them is evident early in the study period with supporters of the state of Israel cautioning against the threat of "extreme *right-wing groups such as the P.L.O. or Nazis* who are dedicated to the destruction of our people" (Ben Israel 1982, 4 - emphasis added). Commenting on a study of anti-Semitism by North York's committee on race and ethnic relations, Bernie Farber, then committee member and research director at the Canadian Jewish Congress, stated that the "phenomenal resurgence" of anti-Semitism in the late 1980s was linked to the trials of Zundel and Keegstra, the trial of John Demjanjuk in Israel¹¹³, the "Arab-Israeli conflicts", and then-minister of foreign affairs, Joe Clark's March 1988 speech at a dinner of the Canada-Israeli Committee in which he criticized Israel for its violation of the human rights of Palestinians.¹¹⁴ (James 1988, E28). Four years later, after

freedom of expression. In 1992, the Supreme Court of Canada overturned his conviction and ruled that the 'reporting false news' provisions were unconstitutional.

¹¹² Jim Keegstra, a public school teacher in Alberta, was charged and convicted of hate speech in 1984. Keegstra was charged under the *Criminal Code*, section 319(2), with "wilfully promoting hatred against an identifiable group". Keegstra appealed his conviction on the basis that the charges violated his freedom of expression. In 1990, the Supreme Court of Canada upheld his conviction, stating that the sections of the *Criminal Code* at issue were constitutional.

¹¹³ In 1988, Demjanjuk was convicted of crimes against humanity by a special tribunal in Israel and sentenced to be hanged. Demjanjuk was alleged to be a guard at the Treblinka extermination camp during the Holocaust. "Ivan the Terrible", Demjanjuk's conviction was subsequently overturned by the Israeli Supreme Court in 1993, although Demjanjuk would be tried again in Germany in 2009. See McFadden 2012.

¹¹⁴ Clark criticized the human rights violations perpetuated by the state of Israel in the West Bank and Gaza as illegal (Freeman-Maloy 2009; Sasley 2011). These violations included the use of live ammunition, withholding food supplies, and the use of tear gas to intimidate families (Freeman-Maloy 2009). The *Toronto Star* would subsequently write an editorial supportive of Clark's comments. See Picard 1988, A16. In a 1988 *Globe and Mail* 'Focus' piece, Abella and Sniderman state that the comments by Joe Clark "...expressions of anti-Jewish emotions that had been dormant, though by no means entirely absent, for some time" (D1). Abella and Sniderman linked the speech made by Clark which criticized the policies of the state of Israel, with research on anti-Semitism, drawing attention to a comprehensive study of racial attitudes conducted by the Institute for Social Research at York University which found that large numbers of Canadians held negative stereotypes about Jews.

the Gulf War, B'nai Brith Canada warned again that "Anti-Semitism [was] at its highest in 10 years and [was] continuing to rise" (*The Toronto Star* 1992, A1; Welsh 1992, A4). In its annual report, the organization listed the Gulf War as one of the main factors driving the rise of anti-Semitism, with the war being described by the Ontario regional chairperson for the League for Human Rights of B'nai Brith Canada as "...an emotional stimulus for those already *predisposed to anti-Semitism*" (Welsh 1992, A4 – emphasis added). By 1994, however, the *Excalibur* reported on a study released by B'nai Brith Canada that stated that while right-wing extremism had risen in Germany and Russia, the impact on Canada had been minimal (Ludwig 1994, 7). The interim director of the Jewish Student Federation echoed this, stating that York University campus had not seen a rise in right-wing extremism because of the "multicultural nature of the campus" and because York is the most "politically correct campus in Canada" (Ludwig 1994, 7).

Despite this waning of anti-Semitism as identified in the aforementioned study, the articles in the *Excalibur* consistently speak of a rising anti-Semitism, and in the post-9/11 period this is singularly and solely focused on Palestine solidarity activism. For example, in a *National Post* article in 2003, Humphreys reports on then-Prime Minister Brian Mulroney giving the opening address at a two-day conference at the University of Toronto looking at anti-Semitism in Canada and abroad (Humphreys 2003, A10). The conference addressed the historical roots and the present day expression of anti-Semitism, but in contextualizing the conference, the article highlighted the clashes at Concordia, the controversy over Daniel Pipes visit to York University and the actions of Sherene Razack.

If the 'new anti-Semitism' involves strategically linking critique of the state of Israel to a rising anti-Semitism, the broader literature demonstrates how this strategy was actually

present both before and after 9/11. Palestine Solidarity Legal Support writes, for example, that efforts to expand and redefine anti-Semitism to include criticism of the state of Israel emerged in the early 2000s, with a Tel Aviv University professor, the American Jewish Committee, and other US Israel advocacy groups (2015, 3). As explained by one of the advocates for the new definition, the ‘new anti-Semitism’ was intended to capture changes in the nature of anti-Semitism. Starting in the 2000s, Porat (2011) identifies Muslims and those with a “Middle Eastern agenda” as the new initiators of anti-Semitism (100, fn 5). The claim was that this ‘new-anti-Semitism’ used violence to target individuals, as well as “verbal and visual insults”, and created a heightened “taboo-breaking atmosphere” which included anti-Zionism, and the use of anti-Semitic motifs which encompassed Jews and Israelis (Porat 2011, 100, footnote 5). During the same time period, Natan Sharansky, popularized the “3 Ds” test to distinguish “legitimate” critique of the state of Israel from anti-Semitic criticism (Sharansky 2004). Here, critique of the state of Israel was described as anti-Semitic if it demonized the state, applied a double standard to the state, and delegitimized the state (Palestine Solidarity Legal Support, n.d., 1). These efforts culminated in the European Union Monitoring Centre, subsequently named the Fundamental Rights Agency, temporarily adopting a similar version of the redefinition referred to as the EUMC Working Definition.¹¹⁵

As the articles from the *Excalibur* demonstrate, the strategic deployment of an understanding of anti-Semitism as both rising sharply *and* as linked to critique of Israel far predates even the early 2000s. More specifically, the articles from the *Excalibur* demonstrate

¹¹⁵ Palestine Solidarity Legal Support explains that the EUMC definition was meant as a guide for data collection. It was subsequently discarded because of negative reception by on-the-ground organizations. By 2013, the FRA removed the definition from its website stating that the agency had never viewed it as a valid definition. See Palestine Solidarity Legal Support, n.d., 3.

how the discursive terrain of the 'new anti-Semitism' has had long-term regulatory consequences for Arab and Palestinian students, and for Palestine solidarity activists as dissident citizens. As early as 1982, a notion of a "new anti-Jewishness" is mentioned in an *Excalibur* article profiling a panel of speakers looking at Canadian anti-Semitism (Fluxgold 1982, 3). In the context of a discussion of the passing of Resolution 3379 by the United Nations General Assembly in 1975 which identified Zionism as "a form of racism and racial discrimination", Irwin Cotler, then law professor at McGill University, spoke on "what we mean when we speak on anti-semitism" and the "new anti-Jewishness" (Fluxgold 1982, 3). As in later periods, however, where those looking to entrench definitions of the 'new anti-Semitism' are careful to offer disclaimers regarding its application, Cotler is also cited as arguing that "one must guard against the brush of anti-semitism indiscriminately." (Fluxgold 1982, 3).¹¹⁶

From 1982 to 1994, the deployment of allegations of anti-Semitism against those organizing for Palestinian human rights is linked most directly to anti-Zionism. For example, in one letter to the editor, Asher Levy equates "Jew haters" with "Israel bashers" and writes:

...Israel has for too long been used as the whipping boy of the international community or portrayed as the bully boy of the Middle East, in this case, for simply trying to quell violent civil unrest as would any other country....I do not object to criticism of Israel per se. What I do object to is when such criticism is malicious, distorted or baseless...when it puts Israel under a microscope while ignoring innumerable countries that commit immeasurably worse crimes...when criticism of Israel degenerates into anti-Zionism or anti-Semitism (which are one and the same, the former simply used as a guise for the latter) (Levy 1989, 4).

¹¹⁶ Resolution 3379 was also significant in that it named United Nations General Assembly Resolution 3151 G(XXVII), passed by the General Assembly in 1973, where the "...unholy alliance between Portuguese colonialism, South African racism, zionism and Israeli imperialism" was condemned (Resolution 3151 G XXVII).

This letter is notable in that in this short paragraph, Levy strategically deploys a number of the tropes used when making allegations of the ‘new anti-Semitism’. Specifically, Israel is the exceptional victim subject to exceptional critique, and as the political and institutional embodiment of all Jews, critique of this state is anti-Semitic, a point to which I will return in the next section. Moreover, critique of the state of Israel is not rooted in a substantive and critical politics, but rather is “malicious, distorted or baseless”. In this way, at the same time that Zionism is depoliticized, Palestine solidarity activists are not granted political status, authority or legitimacy.¹¹⁷

This powerful narrative is reiterated time and time again, particularly within the first 15 years of the study period. In one letter to the editor, the director of the York chapter of Jewish Defense League (JDL) writes that there is no distinction between anti-Zionism and anti-Semitism (Ben Israel 1982, 5). This is echoed in a number of other letters to the editor, which ultimately assert that anti-Zionism and anti-Semitism are “one and the same, the former simply used as a guise for the latter” (Levy 1989, 5). The Director of the York JDL chapter also attributes a false quotation to Dr Martin Luther King Jr. in order to buttress his allegations of racism (Ben Israel 1982, 5).¹¹⁸ Strategically attributing a false quotation to Dr Martin Luther King Jr. occurs again in a letter to the editor by the chairperson of the York

¹¹⁷ The depoliticization of Zionism itself is a notable trend, particularly in the early part of the study period. For example, in a 1989 profile of Israel Week, the JSF programme coordinator, Alan Howitt, explains that the purpose of Israel Week is to “...show the rest of the York community how much we care for Israel, and show off what Israel’s got to offer”. Howitt goes on to remark that the JSF decided to make Israel Week “non-political”, by focusing on “culture, as opposed to political conflict”, therein “safely [avoiding] controversial issues.”. Here Zionism is explicitly depoliticized as Howitt explains that Israel Week is about York’s Jewish community expressing pride in their heritage: “...this is a terrific way of expressing their identity *as Zionists*” (Kaman 1989, 19 – emphasis added).

¹¹⁸ Ben Israel cites Dr Martin Luther King Jr. as stating: “Anyone who says he hates Zionists but not Jews is simply a liar” (Ben Israel 1982, 5). In a 2004 article, Kiblawi and Youmans offer an extended analysis on the strategic mis-use of Dr Martin Luther King Jr. by pro-Israel supporters (Kiblawi and Youmans 2004).

Jewish Students' Network (Estrin 1987, 6). In addition to being described as anti-Semitic, those criticizing Zionism are also described as "...anti-human groups [feeding] false images, [recruiting] ignorance and uneducated people" (Dehmann 1982, 5), and as groups singling out Jews by asserting that Jewish people, alone, do not have the right to self-determination or their own state (Henry 1982, 5).

Challenging the 'new anti-Semitism': The case of Bipin Lakhani

The deployment of the 'new anti-Semitism' does not go unchallenged. In one letter to the editor, Larry Till writes that the lack of distinction between anti-Semitism and anti-Zionism is the result of "confusion" and that organizations like the JDL perpetuate this fallacious parallel (1982, 6). Others challenge the compatibility of Judaic theology and Zionism (Christensen 1983, 4) or the compatibility of traditions of Jewish internationalism and anti-racist struggle with Zionism (Freeman-Maloy 2003, 8). By and large, the most effective opposition comes from those offering substantive engagement with, and critique of the "anti-Zionism is racism" equation.

In an extended letter, Boulos Abrash pushes back against the narrative that Israel is a "poor, persecuted, defenceless state", distinguishing Zionism from Judaism and Jewish people, but linking Zionism, apartheid and the provisions of the 1950 Absentee Property Law (Abrash 1992, 4). In a 2002 letter to the editor, Gavin Fridell also challenges the binary where one is either pro-Israel and pro-Zionist or an anti-Semite (Fridell 2002, 6). Fridell notes that this simplistic binary relies on two powerful myths, the first where Israel and the United States are characterized as "angelic" and "democratic", in opposition to a totalitarian Middle East (Fridell 2002, 6). This mythology requires the active erasure of Israel's non-compliance with United Nations resolutions ordering the state's withdrawal from the

occupied territories as well as a halt to settlement building activity (Fridell 2002, 6). The second mythology is the notion that Israel is a democracy that is committed to the liberal values of freedom of speech, diversity, and human rights; this mythology erases the historical and ongoing extreme violations of the rights of Palestinians (Fridell 2002, 6).

Abrash and others explicitly politicize and denaturalize Zionism. As opposed to a Zionism described as simply “Jewish nationalism” (Professor Michael Brown as cited in Elam 1994, 3), or a movement with a “spirit of...optimism” (Ross 1994, 13), Abrash notes that the goal of Zionism was the expulsion of Palestinians and the expropriation of land (Abrash 1992, 4). Badeen elaborates on this in a 2005 article where he writes that “Zionism for Palestinians has been a process of dispossession and ethnic cleansing” (Badeen 2005, 6).

Challenging these allegations of anti-Semitism does not come without penalty. Perhaps the clearest example of the way in which the “anti-Zionism is racism” equation underscores how Palestine solidarity activists are regulated as dissident citizens is the case of Bipin Lakhani in 1982. Lakhani, student Director of Social and Cultural Affairs used CYSF facilities to photocopy 125 posters, the equivalent of \$8.75 in costs which he subsequently repaid. The posters were found when a student senator and the prior year’s CYSF President were searching in the CYSF filing cabinet. The posters depicted a \$48,000 reward offered by the British government in 1947 for former Israeli Prime Minister, Menachem Begin, in which Begin is described as a “mass-murderer and sadistic torturer” (Editorial 1982, 5). In reference to the Deir Yassin massacre, the posters are also described as listing the “alleged” activities of Begin, stating that Begin “boasts of these crimes as being his greatest accomplishments” (Editorial 1982, 5).

In an editorial critical of Lakhani, the *Excalibur* wrote that the posters were sensationalist and constituted “hate propaganda” (Editorial 1982, 5). Lakhani was roundly condemned as “an irresponsible member of our society” who had “[exploited]...his CYSF position” and “[endangered] the reputation and accountability of the student government” (Editorial 1982, 5). He was further described as having “no right to hold” his post in the CYSF given his “obvious...loyalty to outside political interest” as opposed to the respect he should have for the CYSF and the students he was to represent (Editorial 1982, 5). Lakhani would be subject to extraordinary procedures, with the CYSF calling an emergency meeting during which Lakhani was required to present a formal explanation of his actions. In reference to the meeting, Chris Winter, a representative from the Environmental Studies Students Association stated “We’re having a Kangaroo Court. We have not given Lakhani a fair trial.” (Todd 1982, 1). John Weston, Board of Governors representative, similarly pointed out the injustice in the way in which Lakhani was treated, stating: “If council wants to take such a dramatic action as to ask for a resignation, he (Lakhani) should be asked to prepare a defense. We are imposing a great injustice against him.” (Todd 1982, 1). With his capacity to hold public office questioned, the president of the CYSF would subsequently ask Lakhani to resign, stating: “It is an unfortunate incident that will set a precedent. Bipin can no longer function as a member. He has not made enemies, but people who seem not to be in accordance with his political views. I think justice was done to Bipin and to the people offended by the posters.” (Excalibur 1982, 1). Lakhani would not submit his resignation, and would survive a vote to impeach him. (Schmied 1982, 3).¹¹⁹

¹¹⁹ Sixteen votes were cast to impeach Lakhani, one voted against impeachment and there were three abstentions. The impeachment motion would have needed the approval of 2/3 of council, or 19 voting members.

Or, in 1994, Elam writes that York's Ontario Public Interest Research Group (OPIRG) was distributing "anti-Semitic" literature during orientation week that categorized Zionism as racism (Elam 1994, 3). In response, the JSF and TAGAR, a Zionist group affiliated with the JSF, requested a refund from OPIRG, a strategy apparent in the post-9/11 period when PIRGs across the country would be targeted (Elam 1994, 3). Elam also cites Michael Brown, Professor of Humanities and Hebrew Studies at York who depoliticizes and decontextualizes Zionism as simply "Jewish Nationalism" and states, "There is no justification for calling [Zionism] racist. The *only* explanation for such behavior is that [OPIRG] are bigots. Other nationalities are allowed to be legitimate, why should it be denied to certain people? It sets one standard for Jews and another for the rest." (Elam 1994, 3 – emphasis added). OPIRG would be targeted again in 2009 with Moe Levin writing in the *Excalibur* that the YFS should be appealing the fact that OPIRG receives a certain percentage of student fees (2009, 12). The basis for this appeal is identified as OPIRG's support of IAW and other anti-Zionist activities (Levin 2009, 12).

And, after 9/11, the same discursive basis for the regulation of Palestine solidarity activism is also apparent. In a letter to the editor, Tova Sasson writes in defense of Zionism, describing Zionism as "...simply the right of self-determination of Jews in their homeland, Israel. Zionism is Jewish and Israeli nationalism. Zionism is the support of the legitimacy of Israel and the development of its society. Zionism is part of Judaism." (Sasson 2003, 9). Here, there is no distinction between Jews, Zionism and the state of Israel. In response to a 2002 lecture by Palestinian activist Samer Elatrash and hosted by the CUPE 3930 Anti-Racism Working Group, Naomi Klein writes in a letter to the editor that Elatrash's lecture was a "fiction of Zionism", which she describes simply as the "self-determination of Jewish people"

(Klein 2002, 10). Without evidence, Klein describes Elatrash as a “violent racist” and accuses him of “inciting hatred toward the millions of proud Zionists around the world” (Klein 2002, 10). Or, in 2006, Edward Corrigan writes in defence of David Noble in Noble’s capacity as a Jewish person critical of Zionism (Corrigan 2006, 3). Noah Zatzman responds to the letter, asserting that to “...all but the most jaundiced observer... the vast majority of the Jewish community strongly supports [Zionism] and the *renewal* of the Jewish commonwealth in its *ancestral aboriginal lands*. Jewish criticism of Zionism is Jewish criticism of the hopes and aspirations of scores of generations of Jews who *yearned for this return*.” (Zatzman 2006, 8 – emphasis added). Zatzman depoliticizes Corrigan’s analysis saying that the criticism of Zionism is not about “anger at the government of Israel” but simply has to do with denying self-determination to Jewish people (Zatzman 2006, 8).

What is ‘new’ after 9/11?

By 2002, the scope of allegations of anti-Semitism in the *Excalibur* broadened from a more narrow focus on ‘Zionism as racism’ to an explicit strategy on the part of Israel advocacy organizations to redefine anti-Semitism as “opposition to Israeli state policies, to the policies with which Israel identifies, or to Israel advocacy campaigns on campus.” (Freeman-Maloy 2009; Abu-Laban and Bakan 2012, 323).¹²⁰ For example, in 2004, at a “Jewish Unity Rally” to combat anti-Semitism on York University campus, former minister of national defence Art Eggleton referred to anti-Semitism as “...the oldest form of racism to survive to modern times”, stating that “A new form of anti-Semitism has emerged and it’s

¹²⁰ In a 1989 op ed, York University Professor, Leo Panitch, would write regarding the choice of the university to award an honorary degree to Israeli Prime Minister, Chaim Herzog: “Many Jews are recognizing that a mindset that obsessively labels all criticism of the Israeli state as anti-Semitic is, in fact, mindless, and hardly contributes to helping resolve the crisis” (Panitch 1987, A7).

called hatred of Israel.” (Szekely and Oliveria 2004, 1). Talking about vandalism in a Jewish cemetery, Manuel Prutschi, interim national executive director of the Canadian Jewish Congress said, “There’s a significant wave of anti-Semitism worldwide and Canada is not immune....Criticism of Israel is not only against its policies. There’s an existential question, an assault on the very notion of a Jewish state in the region and the right of Jews to have a homeland.” (Scrivener 2004, A08). Again, these claims regarding the new anti-Semitism would be resisted. For example, in October 2009, nearly 200 York University faculty members and students signed a petition rejecting claims that York University was a hotbed of anti-Semitic activity. The petition resisted the statements of then Citizenship and Immigration Minister, Jason Kenney that what was going on at York University was resembling “pogroms”, and it also cited the September 2009 *National Post* ad by B’nai Brith Canada as “untrue” (Staff, 2009).

While the discourse of the ‘new anti-Semitism’ is in fact ‘old’, what can be described as ‘new’ in the post-9/11 period is the partial success in normalizing and institutionalizing the broadened definition of the ‘new anti-semitism’ in order to solidify dominance of the anti-racist political space.¹²¹ As Freeman-Maloy articulates, allegations of anti-Semitism have been elevated to such a degree that, “There is arguably no scenario – and certainly no scenario in which a significant number of people recognize Palestinians as human beings with rights as such...in which left or progressive political forces can operate in Canada in the

¹²¹ In a 1995 article for example, Ethedgui writes of B’nai Brith Canada’s involvement in Bill C-41, in order to include sexual orientation as a prohibited grounds in terms of motivations for hate crime. Ethedgui notes that B’nai Brith Canada has taken a “leading role in ensuring protection of gay and lesbian groups under the proposed bill” (Ethedgui 1995, 5). Or, in a curious turn, in a 2003 opinion piece penned by Yaakov Roth, a prominent member of the Young Zionist Club at York University, Roth takes issue with “Multicultural Week”, describing multiculturalism as “racism”, and describing “Yorks’ [*sic*] devotion to the arguably racist doctrine of multiculturalism” as old, given the university’s hiring policies (Roth 2003, 8).

coming years without encountering accusations of anti-Semitism.” (2009). In this, there is a discernible ramping up in the intensity of allegations of anti-Semitism directed towards Palestine solidarity activists as well as the resistance to it. Moreover, with the institutionalization of the definition of anti-Semitism comes greater stakes or consequences for those advocating for Palestinian human rights. This escalation is not, however, clearly or neatly linked to the events of 9/11 and may be just as connected to an explicit strategy on the part of Israel advocacy organizations to institutionalize their definition of the ‘new anti-Semitism’, to the increasing pace of illegal settlements by the state of Israel, and to the strengthening of Palestinian resistance and Palestine solidarity activism particularly with the launching of the BDS movement in July 2005.

The state of Israel as the ‘collective Jew’

In addition to characterizing anti-Semitism as exceptional, the second key move with respect to the claiming of exceptional status for Israel is the personification of “the Jewish State” (Loevinger 1991, 5; Nayman 1992, 6; Zatzman 2006, 8) as the ‘collective Jew’, an equation that is inextricably linked to the ‘anti-Zionism as racism’ equation discussed above. As Cairns and Ferguson (2011) write, where other states are characterized as administrative units and sites of power and regulation, Israel is characterized as embodying Jewish people and as such becomes privy to the “protection and privileges of personhood” (422). This strategy, where Israel is purported to singularly represent all Jewish interests, is an integral feature of political Zionism (Cairns and Ferguson 2011, 421). Here, not only does the state represent all Jewish people, but Zionist organizations are characterized as representing them too.

This anthropomorphizing of the state is evident across the 30-year time period and also relies on the tensions between the ‘old anti-Semitism’ and the ‘new anti-Semitism’ as evident in this letter to the editor in the *National Post*:

This isn’t the first time Jewish university students have faced threats and intimidation. In the early days of Hitler’s regime, Jewish students became personae non gratae on Germany campuses, as did German Jewish professors. And German academics such as philosopher Maertin Heidegger were in the vanguard of spreading the calumnies – the Big Lies – that the Nazis used to justify the annihilation of world Jewry. Surveying the scene on university campuses today – Jewish students feeling endangered; calls for a boycott of ‘Zionist’ professors; academics in the forefront of an ongoing intellectual pogrom against the world’s only Jewish state – it is clear that we are witnessing sickening reprise of those bad old days. With one major difference. This time around the goal isn’t the extermination of the Jewish people; that would be “anti-Semitic,” and these academics and other supporters of that pernicious hate-fest, Israeli Apartheid Week, will vow up and down that they are not racists. No, in our time, the aim is to make Israel’s existence morally indefensible so that its destruction can be justified on moral grounds. If that isn’t a ‘final solution,’ I don’t know what is.” (Alter 2009, A23).

The exceptional victim

Within this narrative, the state of Israel is not simply a victim, but is presented as embodying the ‘collective Jew’ who is positioned as *the* exceptional victim. In this narrative, Israel is an outsider, alone and at risk, surrounded by hostile neighbours and a largely hostile international community. The state and its supporters are singled out and are subject to exceptional critique. They are cast as the true “underdog”, struggling to “survive in the hostile Middle East”, and continually “...placed under the microscopic eye of world opinion” (Robinson 1982, 6). Supporters of the state provide their own history of Israel that is marked by “Israel Bashing”, a “war against the very existence of the State of Israel”, and a state that is the culmination of “...two thousand years of dispersal and persecution.” (Snitman 1989, 7). In this narrative, it is the “fledgling state of Israel” that has been under constant attack

(Snitman 1990, 5) or threat of “annihilation” (Prime Minister of Israel Yitzhak Rabin as cited by Conn 1990, 10; London 1991, 4), and this is “...rooted in the deep age-old animosity, expressed by the Islamic world towards the Jewish people.” (Zaionz et al. 1990, 6). This history of “continual [struggle]” is linked directly to supporters of Israel feeling like “a persecuted minority” that is “placed on the defensive” (Felson 1991, 7). The objection here is that “...the Jewish state [is held] to a higher standard than is expected of other states” (Libman 2004, 9).

Again, resistance to this characterization of the state of Israel takes place on a variety of levels and is evident both before and after 9/11. For example, in response to a screening of the film “To Live in Freedom” being interrupted by the Jewish Defence League, Sussman writes: “What bothers me the most is that the JDL, by their name, claims to be defending Jews. I’m a Jew and I don’t need their ‘defence’ - I need defence *from* people who want to keep me from making my own decisions.” (Sussman 1982, 4). Wetstein also writes to the *Excalibur*, imploring the Jewish Student Federation to distance themselves from the Jewish Defense League, a “small group of bully boys who decided for the rest of us, Jew and Gentile alike, what is and what is not anti-Jewish, through this action of censorship” (Wetstein 1982, 6).

The characterization of the state of Israel as the ‘collective Jew’ is also linked to domestic Israel advocacy organizations which come to be seen as representative of the state. The disciplinary impact here is that there is only one kind of authentic Jewish subject or authentic political state. If Israel is the ‘collective Jew’, then those Jews who criticize the state are automatically delegitimized as self-hating Jews, a strategy that is present throughout the 30-year time period. For example, in defense of the JDL, Raymond Ben Israel chastises

“certain Jews” for not understanding the threat faced by Jewish people, describing “...masochistic tendencies among some Jews who still live in a ghetto mentality...” (Ben Israel 1982, 4). Israel describes the JDL as an organization “...prepared to do battle with racist, anti-Semitic groups and to teach Jewish pride to so many self-hating Jews.” (Ben Israel 1982, 4). Cournebloom adds to this, describing that the JDL is a much needed organization that provides “the only protection” to “concerned Jews at York”, asserting that one Israeli critic of the JDL cannot be considered “...a true Israeli in any form.” (Cournebloom 1982, 5).

Similarly, in reference to an article written by Ira Nayman which criticized the state of Israel, Holland writes that if Nayman were “...truly against self-promoting anti-semitism (a Jew making anti-Jewish remark)”, she would have researched “both sides of the story” (Holland 1992, 5). Here, Holland objects to Nayman’s criticism of the “pro-Israel”, “pro-militarist” and “conservative” JSF (Nayman 1992, 6). Nayman self-identifies as a Jewish Zionist who feels unrepresented by the views of the JSF and calls on Jews to be vocal and speak out against the brutality of the Israeli military (Nayman 1992, 6). Nayman levels this critique all the while noting that anti-Jewish racism exists in Canada, but that “well-organized conservative Jewish groups” attack Jews who criticize the state of Israel by calling them “self-hating, traitors” (Nayman 1992, 6). Nayman is also criticized as being “racist”, and placing an undue burden on the shoulders of Israeli people (Heuman 1992, 7).

In 2004, Randy Orenstein writes in a letter to the editor that the director of Hillel @ York should resign because of the politically extreme direction she has taken the organization (2004, 11). Orenstein describes how as a “moderate and progressive Jew” he feels stigmatized because he is not a Zionist, and that he cannot go into the Hillel @ York space “without facing extreme prejudice and ostracization” (Orenstein 2004, 11). And, in a

2006 article tracking Professor David Noble's human rights complaint with the Ontario Human Rights Commission regarding York's practice of cancelling classes on some Jewish holidays, Bohr describes how Noble has faced "...criticism and open hostility from his fellow Jews", referred to as "an imposter Jew, a self-hating Jew, and an anti-Semite" (Bohr 2006, 2). Shapiro summarizes this dynamic in his letter to the editor, writing that the state of Israel "is as much a warmonger as the USA" and that if he were not Jewish, he would be considered an anti-Semite for saying so: "...just because someone is Jewish it does not mean they are pro-Israel. And if one happens to be anti-Israel, it does not make them an anti-Semite." (Shapiro 2002, 11). By personifying the state of Israel, critique of the state by Jewish people is depoliticized and recast as a question of authenticity at the same time that it is imbued with essentialist rhetoric.¹²²

That the consistent anthropomorphizing of the state of Israel is accompanied by a clamping down on the critique of the state of Israel matters in at least three different ways when thinking about the regulation of Palestine solidarity activists on York University campus. First, that there is a transnational pull to this regulation cannot be understated. The personalization of the state means that these same dynamics extend to York University campus. If Israel the state is the 'collective Jew', Zionist student groups are also characterized as representing the 'collective Jew'. In this way, tracking the domestic regulation of dissident citizens is inescapably transnational, meaning that forms and modes of regulation may vary among dissident groups, and periods of repression and relative freedom may also vary

¹²² In a 1988 Focus Piece in the *Globe and Mail*, Dorothy Lipovenko writes about how Canadian Jews are wrestling with the question of whether they should openly criticize Israel and if so what form that criticism should take. She writes that "Right and wrong have temporarily been eclipsed by the issue of free speech, namely whether publicly criticizing Israel is tantamount to betraying it" (Lipovenko 1988, D1).

among those groups practicing a dissident politics. Consequently, domestically insular considerations of citizenship change in Canada are not analytically sufficient.

Second, from the perspective of Israel advocacy organizations, if a Jewish person is critical of the occupation and the Israeli state, that critique is not characterized as an act of conscious political dissidence, but is depoliticized and decontextualized as a moral betrayal or a question of authenticity. If a non-Jewish person is critical of the occupation and the Israeli state, that critique and that person are characterized as anti-Semitic, a betrayal of human morality. Both of these dynamics are seen across the study period.

Third, in addition to these questions of authenticity or moral betrayal, the personification of the state of Israel means that the security of Israel is characterized as being intrinsically and integrally tied up with the security of *all* Jewish people. The common thread in the backlash to critiques of the state of Israel is that the exceptionalizing of anti-Semitism and the positioning of the state of Israel as the embodiment of all Jewish people trades on a perpetual and normalized sense of insecurity. That the state of Israel is portrayed as both victim and outsider emboldens its supporters and does so through the production of an ongoing insecurity that is directly linked to anti-Semitism. Consequently, supporters of the state of Israel must continually demonstrate active and ongoing support. This is not a political imperative, but a moral one. Moreover, the ongoing exceptional crisis or insecurity in which Israel is characterized as being positioned justifies inordinately unjust exertions of state power against the Palestinians and others in the region. The transnational impact of this is felt on York University campus where these two claims act as strategic forms of governance that dramatically narrow the political space available to dissident citizens just

as they dramatically expand the realm of what is permissible for the state of Israel and its supporters.

In sum, the *Excalibur* demonstrates how the treatment of Israel as an exceptional victim is accomplished in two key moves. First, anti-Semitism itself is treated as exceptional, and second, with the state of Israel personified as the 'collective Jew', critique of the state of Israel becomes critique of Jewish people. If Jewish people are being unfairly singled out for critique, critique of the state becomes anti-Semitic (Cairns and Ferguson 2011, 422) and *this* becomes the basis of claims of the 'new anti-Semitism'. This type of personification is significant because as Cairns and Ferguson (2011) astutely note, as the 'collective Jew', the state of Israel is humanized, gaining the "protection and privileges of personhood" but not the associated vulnerabilities (422). Moreover, this dramatic discursive emphasis on the 'new anti-Semitism' also marks a shift away from a focus on the human rights of Jewish people to a focus on attitudes towards the state of Israel (Nadeau and Sears 2010, 14).

What is notable here is that this is not a discursive strategy that is unique to the post-9/11 period. The data from the newspaper does show an increasing engagement with the language of in/security, a point to which I will return later, and the larger political context illustrates that an explicit effort has been made in the post-9/11 period to institutionalize this broadened definition of anti-Semitism. However, there is a deep historical continuity where pro-Israel supporters characterize critique of Israel as anti-Semitic, echoing the findings in work like Beinín's (2004) who writes that this is not a new strategy or mode of regulation. For example, in the American context, after the 1967 Arab-Israeli War, the American Jewish Committee, B'nai Brith, the Anti-Defamation League (ADL) and the American-Israel Public Affairs Committee began to monitor university campuses, focusing

on students and teachers identified as “anti-Israel” and warning of the increasing influence of “Arab propaganda” (2004, 107).¹²³ Following the 1982 invasion of Lebanon and the increased criticism of Israel that ensued, the New England regional offices of the ADL distributed a booklet intended to help Jewish students deal with anti-Zionist and anti-Semitic activities on campus (Beinin 2004, 108).¹²⁴ In the handbook, no distinction was made between anti-Zionism and anti-Semitism (Beinin 2004, 108).¹²⁵

Again, as a discursive strategy, the linking of advocacy for Palestinian human rights, critique of Israel, critique of Zionism and anti-Semitism has a constraining and regulatory impact on the dissident political work of Palestine solidarity activists, as well as those members of the York community who characterize themselves as disinterested. For example, in the context of York University campus, it becomes unfathomable that Palestine solidarity activists would protest Israeli state policy during one of the themed-awareness weeks pertaining to the Holocaust, *even if* the week also features events which profile the state of Israel. In a letter to the editor, Jonathan Roth, contends that it is “ludicrous” to believe that “Palestinian rights groups” are allied in fighting against anti-Jewish racism (Roth 2006, 9). According to Roth, “...these same groups hold anti-Israel rallies specifically during Holocaust and Genocide Awareness Week at York to direct attention away from remembrance.” (Roth 2006, 9). In this sense, the legitimacy of allegations of the ‘new anti-

¹²³ See Beinin (2004) for a more extensive description of the targeting of American academics critical of Israeli state policies.

¹²⁴ Also in 1983, the national ADL published a handbook entitled “Pro-Arab Propaganda in America: vehicles and voices, a handbook” which specifically listed individual university faculty and staff who held anti-Zionist viewpoints (Beinin 2004, 108).

¹²⁵ Hagopian writes how the Zionist movement “...was able to influence the Jewish community to place the idea of Israel foremost in their emotions and in their actions. They were also used to influence and pressure the American government and to identify, limit and intimidate critics of Israel” (105). Texts would be published which “... [confused] instances of anti-Semitism in the United States by right-wing racists with the anti-Zionist critics of Israel.” (1975-1976, 105, fn 8).

Semitism' do rely on the 'old anti-Semitism' and trade on the undeniable horror of the Holocaust and the reality of anti-Jewish racism. This becomes a bind for Palestine solidarity activists because the state of Israel is responsible for the ongoing repression and oppression of Palestinians. But this state becomes one that is beyond reproach when criticism of the state of Israel is equated with anti-Semitism, a strategy of delegitimization and decontextualization that has been very powerful.

Israel as entitled and original

Part of the complexity of the claim of Israel's exception is that the state of Israel is not simply cast as a victim. Consistently across the 30-year time period, the claim to exceptional victimhood is accompanied by a narrative where Israel is far from marginal. Israel the state and Israel the 'collective Jew' are imagined as entitled, original, foundational and as an insider.

This Israel is an exceptional democracy (Snitman 1989, 7) whose right to self-determination is centered. The values upon which Israel is founded - "democracy and freedom" (Felson 1991, page 7) - are either unique to Israel in that they are "totally alien to the Middle East" (Snitman 1989, 7; Robinson 1982, 6), or they are values uniquely shared with Canada (Felson 1991, 7) and "Western civilization" (Libman 2004b, 7)¹²⁶. This

¹²⁶ Aliza Libman, reporter for the *Excalibur*, illustrates the kinds of power inversions and erasures that accompany this portrayal of Israel and 'Western civilization' as exceptionally progressive. Libman's argument is worthy of citing at length: "Despite the fact that I am a twenty-something progressive educated Canadian feminist, I don't hate America. Or Israel. Or Western civilization. These days, it seems fashionable to sit in York classes and talk about how much we hate Western civilization. American arrogance is bad. American culture is bad. Western 'colonialism' is bad. Give me a break.; Despite its flaws, Western civilization is the best thing that has ever happened to this world...it has also given birth to the most free and enlightened period in history.; Similarly, the multiculturalism and diversity as well as the freedom of Western states such as Canada, the United States and Israel are based on fundamental respect for human rights of all people, something that many people in this world are denied. And of course, the freedoms we Westerners have, espouse and protect are

comparison to Canada is reinforced by then Prime Minister Paul Martin. Reporting on the 2005 United Jewish Communities' Annual General Assembly which was attended by Martin, Justiz cites the Prime Minister as remarking that "Israel's values are Canada's values. Democracy, the rule of law and the protection of human rights." (Justiz 2005, 3). As Noah Zatzman writes, Israel is "one of the most free, open, liberating societies on earth" – an "open society, a beautiful society" (2005, 7). Israel is a country of "strength and independence", with a "moral case for self-defense against terror", in part because of "her unyielding commitment to liberty and freedom" (Roth 2003, 9).

As part of this mythology, across the study period Israel is presented, despite remarkable evidence to the contrary such as the brutal occupation since 1967, as a benevolent state. Speaking about the 1982 invasion of Lebanon, Robinson states that a democratic Israel and the Israeli army have given Lebanese people an "opportunity": a "free, united Lebanon, free from terrorism and at peace with Israel" (Robinson 1982, 6). In another letter to the editor, Joachim Dehmann writes of the exceptional benevolence of Israel, suggesting that "...arabs [*sic*] in Israel are better off than those in the arab [*sic*] countries which are ruled by power-hungry people with *primitive* policies" (1982, 25 – emphasis added). Asher Levy also suggests that under the occupation, Palestinians are better off by noting that four universities exist in the occupied territories that did not exist prior to 1967 (1989, 4). Reporting on a speech by visiting Israeli diplomat, Dror Ziegerman, on the mass deportation of Palestinians to Lebanon in December 1992, Ziegerman is cited as speaking of Israel as a "democratic country protecting people from terrorists"; the

despised by those whose 'alternate world views tell them that murder – intentionally taking the lives of civilians - is a legitimate way to achieve their goals" (Libman 2004b, 7).

deportations were better than killing Palestinians or “sending tanks to destroy them” because “That’s what the Arab leaders are doing to their people” (Adler 1993, 3). And, in one article, “democratic” Israel is contrasted with Hezbollah, with Israel placing its military bases far from civilian populations in order to minimize civilian casualties (Hummel et al. 2006, 9).

In addition to Israel’s characterization as democratic and benevolent, the text speaks of Israel’s commitment to “diversity”. For example, in her opinion piece, Tova Sasson questions critics of Zionism: “Do they not know that Israel is the only Middle Eastern state in which Jews and Arabs work side-by-side and eat together in the same restaurants? It is the only Middle Eastern state where all religions can worship freely. It is the only Middle Eastern state that is a democracy” (Sasson 2003, 9). Judi Siklos writes of her travels in Israel where she experienced the “same diversity [she] [experiences] in Canada” (2004, 18). Specifically referencing Israel as a pluralistic, open democracy, that is “gay-friendly”, Siklos writes that the choice for World Pride to be held in Tel Aviv in 2005¹²⁷ illustrated “...the universality of love and the encouragement of diversity within Israel” (Siklos 2004, 18). These characterizations of Israel are then mapped onto Israel advocacy groups like Hillel which are described as “devoted to pluralism, diversity and tolerance” and “always have, always will, be devoted to promoting ideals of peace and understanding” (Hummel et al., 2006, 9).

Brand Israel

This focus on diversity is a value stressed mostly in the post-9/11 context, and particularly with the formalization of the ‘brand Israel’ campaign in 2005 where the state of

¹²⁷ World Pride would subsequently be postponed.

Israel committed itself to an orchestrated campaign to “...reinvent [Israel’s] image in the eyes of both Jews and non-Jews” and to portray the country as “relevant and modern rather than only as a place of fighting and religion” (Popper 2005).¹²⁸ The reactiveness of this rebranding campaign was also linked to the “potential effectiveness of the BDS movement” (Bakan and Abu-Laban 2009, 48) For example, in hosting a fashion show showcasing Israeli designers in Canada, the Israel Affairs co-chair of Hillel at the University of Toronto stated: “We want to show the public a completely different side of Israel that gets often left out....the young, hip, cool side of Israel, more than the political hotbed that is always portrayed in the media.” (Huang 2004, 2).

By 2007, Israel’s first brand management office - the National Information Directorate - was created and allocated a budget of \$4 million in addition to its existing \$3 million budget on hasbara, and \$11 million budget for Israeli Tourist Industry in North America (Shabi 2009).¹²⁹ In 2008, Hasbara Fellowships at York would even host the Israeli-Consul General, Amir Gissin, who gave a speech on Israel’s attempt to rebrand itself in order to attract new investment as well as tourism (McLean 2008, 5).

This would culminate in an extensive number of ‘soft stories’ featuring Israel, particularly after the Israeli attacks on Gaza in 2008-2009 (Dobbin 2009). For example, in 2007, Valary Thompson would write a feature on Israel’s progressive recognition of the rights of gay and lesbian couples (2007, 8), a feature which would fit neatly within the brand Israel’s campaign to “...[harness] the gay community to reposition its global image”, a tactic

¹²⁸ For a detailed history of the rebranding campaign, see Schulman 2011a.

¹²⁹ The National Information Directorate was set up following recommendations from an Israeli inquiry into the 2006 Lebanon war. The role of the National Information Directorate is to deal with hasbara, or explanation or state propaganda. See Shabi 2009.

that has been labeled 'pinkwashing' by many in the lesbian, gay, bisexual and trans-communities (Schulman 2011b). Writing of this strategy, Jasbir Puar describes homonationalism as a way of understanding "...the complexities of how 'acceptance' and 'tolerance' for gay and lesbian subjects have become a barometer by which the right to and capacity for national sovereignty is evaluated" (Puar 2013, 336). Here, Israel's pinkwashing campaign promotes the state as a friendly and safe space for LGBTQ as a way to "...reframe the occupation of Palestine in terms of civilizational narratives measured by (sexual) modernity" (Puar 2013, 337).

Later that year, David Gordon profiled the volunteer activity of Hillel@York, whose members travelled to Uganda to work with Uganda Orphans Rural Development Programme (Gordon 2007, 10), and then in 2008 to help the victims of Hurricane Katrina alongside Habitat for Humanity and United Jewish Appeal (Labine 2008, 4). In a 2008 LTE, Vardit Feldman would criticize application of the apartheid analogy to Israel by noting that Israel had taken in many displaced person from Darfur (Feldman 2008, 27). And, in 2009, the Toronto International Film Festival (TIFF) hosted a controversial spotlight on Tel Aviv in which the Israeli government partnered with Sidney Greenberg of Astral Media, David Asper of Canwest Global Communications and Jeol Reitman of MIJO Corporation to refocus attention away from Israel's treatment of Palestinians, and focus instead on Israel's medical, cultural and scientific achievements (Artists Against Apartheid 2009).

In the early period, Israel advocacy organizations would also be concerned with the face Israel presented to the world. For example, as early as 1989, in explaining Israel Week, the programme coordinator for the JSF stated that the events of the week are intended to "...show the rest of the York community how much we care for Israel, and show off what

Israel's got to offer....The theme of the week is Faces of Israel....Each day, a different face. We decided to make it non-political because, if we wanted to show off the political sides of Israel, we'd have had to make it Israel Decade, rather than Israel Week" (Kaman 1989, 19). In this way, while the threads of the campaign were similar in the pre- and post-9/11 period in that the state of Israel and the occupation are explicitly depoliticized, the institutionalization of the campaign and the strategy are more than significant in the context of the study of York. As Michael Posner reports, for a variety of reasons, the director of public affairs at the Israeli Foreign minister identified Toronto as the ground zero for the rebranding of Israel exercise (2009, M1). As a centre of finance and media with three large university campuses and a left-wing academic and arts community, Toronto's blend of American and European influences, its commitment to multiculturalism, its robust Jewish community and growing Muslim population, as well as its history of strong criticism of Israel, including that Israeli Apartheid Week first started at the University of Toronto in 2005, all made the city an ideal test grounds for efforts to recraft the image of the state of Israel (Poster 2009, M1).

Across the study period, these mythologies do not go unchallenged. Khouri, for example, destabilizes arguments put forward in an interview with Professor Yosef Olmert, where a democratic Israel is characterized as a "good guy" and Arabs are "bad guys", and terrorists (Khouri 1986, 11). Here, Khouri stresses the constant harassment and torture of Palestinians in the West Bank, the closure of Palestinian universities and the restrictions placed on Palestinian culture, and the "practices of ethnocide and politicide" against the Palestinian people (Khouri 1986, 11). Abrash further challenges these mythologies, providing a detailed list of the number of Palestinian villages destroyed in the name of Zionism, referring to Israel as a "brutally repressive apartheid regime" which commits acts

of terrorism against its indigenous Arab population and Arab neighbours (Abrash 1992, 4). Muhammad also takes issue with Israel's 'pinkwashing', noting that the 2005 pride parade in Israel was part of "...an organized public relations campaign...meant to counterattack the negative attention that the Israeli state has been attracting due to the countless number of human rights violations that it commits" (Muhammad 2004, 18).

Inversions of power

Simultaneously taking on the status of exceptional victim and entitled and original state is an exceedingly powerful move, and one that requires radical decontextualization and radical inversions of power. For example, in their 2011 article on the CPCCA, Cairns and Ferguson note that CPCCA witnesses attesting to the dynamics of a 'new anti-Semitism' on Canadian university campuses have tended to appropriate the language of chilly climate from a lineage of feminist mobilization against male supremacy (425). Or, put more broadly and reiterating a point made earlier, the position of exceptional victim has allowed York-based advocates for Israel to monopolize and stake a claim on discussions of racism and anti-racism. Starting with the subjective experience of the oppressed, the recognition of chilly climate is rooted in the ways in which subjectivity is experienced within a context of intersecting systems of oppression (Cairns and Ferguson 2011, 425). Recognition of a chilly climate focuses on "acknowledging subjective claims of fear and unease"; intent is not required for evidence of harm (Cairns and Ferguson 2011, 425).

In the present case, for these claims to hold, one must accept that Israeli institutions and advocates for Israel are in a systemically and institutionally subordinate position to Palestinian institutions, Palestinians, and advocates for Palestine. (Cairns and Ferguson 2011, 426). Transnationally, this is certainly not the case, and institutionally at York

University, this also seems to belie reality. This disjuncture is noted in one article by Jesse Zigelstein on the decision of the Canadian government to deny entry to Nation of Islam preacher, Khalid Abdul Muhammad on the basis of “ubiquitously documented anti-Semitism and general hate-mongering” (1994, 5). Zigelstein goes on to write that there is a double standard in “...Canada’s moral pursuit of social equality: apparently there are some groups – mainly already oppressed minorities – that can be tolerably attacked and others – whites and Jews; in general, powerful elites – whose defence requires assiduous action and the long arm of the law” (Zigelstein 1994, 5). Zigelstein’s perspective would be replicated in a *Globe and Mail* editorial one month later which denounced the decision of the government, suggesting that if the decision was based on a non-partisan and principled stance rooted in a concern for social justice, other forms of hatred and racism (Editorial 1994, D6), particularly those of right-wing should similarly be targeted, with the paper noting “...the regular dehumanization and demonization of Arabs, especially Palestinians, in the daily news” (Zigelstein 1994, 5).

Through advertisements, articles profiling student/academic exchanges and institutional links, scholarships, visiting and honored speakers or honorary degree recipients, the *Excalibur* clearly illustrates that on York University campus, Israel advocacy groups are positioned favourably, particularly in a neoliberal institutional climate. In this sense, what *is* exceptional is the external support that student groups supporting Israel receive. Their access to the media is exceptional, their capacity to mobilize attention from the university administration is exceptional, and their institutional entrenchment is exceptional. In all these ways, their capacity to mobilize attention to their claims of the ‘new’ anti-Semitism is heightened. Despite the reality of anti-Jewish racism, supporters of the state

of Israel are far from marginal on York University campus but strategically portray themselves as such. Resolving or challenging this disjuncture is a fundamentally risky prospect for dissident citizens, and the choice to take on this risk is one fundamental way in which Palestine solidarity activists are regulated throughout the entire time period covered here.

The disturbing trend that emerges across the entire study period is that exceptional freedom is accorded to those making allegations of anti-Semitism at the same time that Palestine solidarity activists are subject to exceptional repression of their speech. As Nadeau and Sears (2010), suggest, even potential complaints of anti-Semitism are “...treated in the first instance as unconditionally acceptable, rather than being questioned or viewed as exceptional provocation” (2010, 26). This is demonstrated through dramatic incursions on freedom of speech and academic freedom, to be addressed more fully in the next section. Accompanying this repression of speech is a broadening of space for oppressive speech by York-based Israel advocates, a phenomenon evident across the time period, but seemingly more heightened in the pre-9/11 period.

The broad political space granted to and claimed by campus-based supporters of the state of Israel, the moral weight leveraging allegations of anti-Semitism, and the efforts to institutionalize a reworked and broadened definition of anti-Semitism have seemingly afforded supporters of the state of Israel exceptional liberties to carry out events or activities which in fact perpetuate racism against Palestinians. By and large no remorse, regret or acknowledgement is evident in the pages of the *Excalibur*. This point cannot be overstressed in that to characterize critique of the state of Israel as intrinsically anti-Semitic requires dramatic contortions, as well as extreme and violent erasure. Palestinians, the occupation

and anti-Muslim racism must be vacated from this discourse or at the very least their claims must be deeply delegitimized.

As just one example, the broad political space available to Israel advocates on York University campus is evident in a series of high profile Zionist speakers invited to York University campus. For example, in 1981, Rabbi Meir Kahane, the founder of the Jewish Defense League (JDL), was invited by the JSF to give a lecture. Kahane himself had advocated for the forced transfer of all Arabs from the state of Israel, and also supported extensive anti-Arab violence. In 2001, the United States' Federal Bureau of Investigation described the JDL as a "violent extremist Jewish organization" and listed it as a "right-wing terrorist group" (Gerson 2014). Although Canada has not done the same with the JDL, its regularized presence at York University and how this may make Palestinian or Palestine solidarity activists feel unsafe is never addressed in the *Excalibur*.

As Freeman-Maloy (2009) notes, not only was it remarkable that Kahane was invited to campus, but the *Excalibur* also wrote an extremely generous article about his visit (Freeman-Maloy 2009). In one article, the programme assistant for the JSF at the time, Charles Lebow, spoke of how he scheduled the "infamous Jewish activist Meyer Kahane" for Jewish Awareness Week (Lefko 1980, 11). Lebow suggested that Kahane was invited specifically because of his "controversial" stance as an exercise to "challenge and provoke" (Lefko 1980, 11). In her article about Kahane's visit, Suri Epstein refers to Kahane as "the colourful leader of the Israeli political party Kach", a party that would shortly thereafter be banned by Israel for its racism (1981, 1). Epstein goes on to describe Kahane's respect for the "Arab nation", and how this respect led Kahane to see it as unfair that "Israeli Arabs" be compelled to sing the words of the Israeli national anthem or "stand with Israel in military

defense against her hostile Arab neighbours” (Epstein 1981, 1). Because of Kahane’s sympathies “with their loyalty to the greater pan-Arab cause...these people would be better off living in such countries” (Epstein 1981, 1). Epstein goes on to note that the “rebel leaders ideas are somewhat unpopular” but that the Israeli government has maintained a “policy of conciliation towards the resident Arabs that has included the introduction of electricity and plumbing among other conveniences.” (Epstein 1981, 1). In late 1984, in conjunction with the JSF, the JDL chapter at York invited Kahane to campus again, this time as a reaction to the Canadian government’s decision to bar him from visiting the country (Freeman-Maloy 2009).

In November 1989, then Israeli-defense minister, Yitzhak Rabin was invited to York University for an invitation-only event that was also attended by the Israeli consul general, Israel Gur-Arieh (Katsman 1989, 6). In 1981, Rabin, then Israeli defense minister, had notoriously given orders to the IDF to “break the bones” of Palestinians during the First Intifada (Kane 2010). That same year, then President of Israel Chaim Herzog, a veteran of the Israel Defense Forces, was presented with an honorary degree as a “distinguished scholar, lawyer, soldier, and statesmen” (Wise 1989, 9). In introducing Herzog, York University professor Irving Abella stated that “Herzog’s passion for justice was a beacon of integrity and vision” (Wise 1989, 9). Faisal Kutty, then-President of the Muslim Student Federation at York wrote of the audacity of Herzog making a plea for human rights around the world while accepting his degree (1989, 4). In addition, a group of 14 Jewish York faculty members wrote an open letter in the *Globe and Mail* protesting the degree, the lack of transparency in announcing Herzog as a recipient, and the inappropriateness of “[conferring] a degree on a head of state involved in continuing violations of human rights,

the suspension of an entire education system in the West Bank for 1.5 years, and the granting of clemency to Israelis convicted of killing Palestinians.” (Buchbinder 1989, 7).

In 1991, a member of the York Arab Student Association (YASA) wrote to the *Excalibur* regarding a visiting speaker hosted by the JSF, Professor Dan Scheuftan, from Hebrew University. During his lecture, Scheuftan made generalizations about Arabs, stating “All Arabs are violent”, and when questioned as to why he thought Palestinians should be transferred out of Israel, he replied that “it was because they [Arabs] wanted to slaughter everyone and also they wanted to poison baby Jews” (Borch 1991, 1). The President of the Arab Student Association called on “requisite university agencies to guarantee that [students’] inalienable right to be educated in a university free of stereotypes be upheld” (Yousef 1991, 6). Samer Bwab expressed dismay that the JSF would host this professor given his refusal to recognize the rights of the Palestinian people to self-determination, and that he was racist in his “pledge to dehumanize an entire nation” (Bawab 1991, 7). In response, Corey Ross, a self-described Zionist and frequent contributor to the *Excalibur*, replied by calling Scheuftan’s presentation “blunt” but not slanderous or racist (1991, 6). In response, the JSF sent a letter of regret to the YASA, stating that the opinions of Scheuftan were not the official position of the JSF, with the program director of the JSF stating that “...the speaker was very flamboyant and wanted to elicit a response but...was careful to mention that he was not saying that all people of X origin are of X behavior” (Borch 1991, 1).

In the post-9/11 period, Hillel @ York would also invite then-Israeli minister Natan Sharansky to deliver a speech called “Human Rights, Justice and Democracy in the Middle East” at York University (Oliveria and Libman 2003, 1). Identifying himself as a human rights activist, Sharansky spoke to a crowd of over 200 students and faculty, and was introduced

by then-York President, Lorna Marsden (Oliveria and Libman 2003, 1). Reading from a portion of a presentation made in 1982, when Sharansky was awarded an honorary doctorate from York, Marsden referred to Sharansky as “a symbol for the struggle for human rights wherever people are oppressed” (Oliveria and Libman 2003, 1).

Students for Justice and Equality at York would subsequently call for Marsden’s resignation, stating that she had exhibited “gross misjudgement” in associating herself with the event (Oliveria 2003, 5). In response, Marsden stated that, “As a University, we neither endorse nor oppose the views of international governments; however, we do have a role in providing a forum for these discussions to take place in a free and respectful manner.” (Oliveria 2003, 5). Two years later, at the Raoul Wallenberg Day International Human Rights Symposium at Osgoode Hall Law School at York University, Sharansky, then-Israeli Minister of Jerusalem and Diaspora Affairs, again participated as a visiting speaker (Mouammar 2005, 9). Held on Martin Luther King Jr Day in the United States, the symposium focused on justice for victims of war, as well as terrorism, national security and other human rights violations and was part of the annual education events of the Sarah and Chaim Neuberger Holocaust Education Centre, a center funded by the United Jewish Appeal Federation of Greater Toronto. While not listed in the summary of proceedings¹³⁰, Mouammar writes that the “the event uncomfortably included Natan Sharansky” who spoke about his own victimization at the same time justifying the “systematic abuse and discrimination of the Israeli occupation with rhetoric about good and evil” (Mouammar 2006, 9). Mouammar wrote that as Israeli Minister of Housing and Construction, Sharansky violated the Fourth Geneva Convention by

¹³⁰ See the summary of proceedings of the Raoul Wallenberg International Human Rights Symposium, January 17-18, 2005. Accessed March 6, 2016. http://smartershift.com/downloads/portfolio/summaries/wallenberg_symposium_final.pdf.

overseeing the aggressive building of settlements and the mass confiscation of Palestinian land (Mouammar 2006, 9).

Finally, in 2003, the JSF invited Dr Daniel Pipes to speak on “Barriers to Peace in the Middle East” (Libman 2003, 1). In her profile of the event, Libman described Pipes as a “noted commentator for MSNBC and CNN, and founder of Campus Watch – a web site that aims to improve Middle East studies at North American universities by monitoring and critiquing” (Libman 2003, 1). Critics of Campus Watch and Pipes have noted that the web site actually stifles academic freedom and that Pipes’ endorses racial, ethnic and religious profiling (Ben-Ishai 2003). Upon learning of Pipes’ connection to Campus Watch, the York Centre for International and Strategic Studies withdrew its support for the event citing Campus Watch’s attacks on academic freedom (Libman 2003, 1). While Pipes’ lecture was initially scheduled at a central campus pub, the event was cancelled after vigorous protests. However, in response, then President Lorna Marsden relocated the event, provided a police presence to ensure the talk could proceed and in doing so, catalyzed a round of protests leading students to occupy her office (Ben-Ishai 2003). For Daniel Held, the Israel Affairs Coordinator of the JSF, allowing Pipes to speak represented the university’s commitment to “freedom of speech and freedom of inquiry” (Ben-Ishai 2003).

In addition, during the study period, Arabs are referred to as “power-hungry people with primitive policies”, with the PLO recruiting “ignorant and uneducated people” (Dehmann 1982, 5). The ‘right’ of Israel to be “[tough] on the land question” (Noon 1991, 6) is consistently stressed at the same time that the right of Palestinians to security is erased. In one letter to the editor, Aaron Kendal writes that Palestinian villages are bombed “because they harbor cowards who call themselves ‘Liberators of Palestine.’ They hide behind the

skirts of their women, the toys of their children and the hospitals of their sick; by positioning themselves in the middle of these 'peaceful' villages thereby turning them into armed terrorist camps" (Kendal 1992, 4). And, in 2003, with the approval of York administration, York's Young Zionist Partnership student group held an Israel Defence Forces Appreciation day, supporting the Israeli military.

During this same time period where Israel advocates are clearly granted broad scope, when actually covered by the *Excalibur*, events held and speakers invited by Palestine solidarity activists are consistently discredited, with speakers referred to as radicals or polemicists. In these critiques, as a strategy of depoliticization, the identity of the individual making particular arguments rather than the argument itself is targeted (Masri 2011, 21). As early as 1982, the *Excalibur* reports on the attempt by "several Jewish students" to prevent a screening of the film "To Live in Freedom" by the York University Palestine Education Committee (Gaudet 1982, 1). These "several Jewish students" would later be identified as members of the JDL (Sussman 1982, 4), who described the screening of the film as "an attack against Jews" and "Jew hatred" (Gaudet 1982, 1).

Again, in 1990, Rubin writes that the YASA was celebrating Palestinian Land Day in a central university building when members of the JSF's Israeli Public Affairs Committee (IPAC) disrupted the event (Rubin 1990, 2). A member of IPAC stated that they were simply trying to "...make sure both sides of the controversy were being represented" (Rubin 1990, 2) which was in sharp contrast to another letter to the editor in which Katkhuda writes that members of the JSF were "trying, by distributing literature, to distort, and provoke intolerance to what was a peaceful commemoration of the 'Day of the Land' in Palestine, a

day on March 30th, 1976 when the Israeli government ordered the expropriation of Palestinian land” (Sa’ed Katkhuda 1990, 4).

In 1995, Kelly would write an article about the disruption of the YASA’s “Solidarity Day with the Palestinian People, a day intended to “[commemorate] the displacement of hundreds of thousands of Palestinians, the uprooting and forcible eviction of thousands more, not to mention the massacres and consequent atrocities committed against the indigenous inhabitants of Palestine” (Kelly 1995, 3). The JSF would subsequently issue a press release, stating that the YASA had refused to remove displays the JSF deemed “factually incorrect”, resulting in the JSF seeking intervention by the office of Student Affairs (Kelly 1995, 3). In attempting to curtail the speech of the organizers of the event, then president of the JSF, Mike Nadler, expressed that the group was “...upset that the focus was not on the peace accord, it was still on the negative past that really is not real (to a large extent)...The target of the day was not to promote Palestinian solidarity, but to promote hatred of Israelis and Zionists” (Kelly 1995, 3).

The common thread here is that power and actual racist hierarchies are continually inverted, and at its most extreme, Palestinians themselves must be erased (Nadeau and Sears 2010). Palestinians, the occupation, and anti-Muslim racism must all be vacated from this discourse, or at the very least, they must be deeply delegitimized. As Nadeau and Sears (2010) note, the existence of Palestinians fundamentally disrupts the Israeli narrative where they are an oppressed people claiming their right to self-determination by returning to their ancestral homelands (13). Consequently, if Palestinians exist, the state of Israel must explain forced displacement and ongoing oppression (Nadeau and Sears 2010, 13). Certainly, this must occur in Israel-Palestine proper, but this radical dehistoricization also occurs on York

University campus. In its most extreme articulations, Palestinians themselves are evicted from that history and re-interpellated as different subjects. In different ways, the backlash or the silencing campaign must make Palestine “unspeakable” (Nadeau and Sears 2010, 13). If Israel as the “collective Jew” is a victim, an outsider, and entitled and original, on-campus Jewish supporters of the state are similarly positioned, and even extremist demonstrations of active support for the state become permissible at a minimum and justifiable at most.

4.4 CONCLUSIONS: THE THREAT OF THE APARTHEID ANALYSIS

This chapter has considered the empirical evidence in order to test the assertion that the intense regulation Palestine solidarity activists were subject to in the post-9/11 period is uniquely linked to the 2001 terrorist attacks. The focus in this chapter has been on the way in which Palestine solidarity activists are regulated as dissident citizens through notions of the exception. Here, evidence from the *Excalibur* demonstrates significant continuities across the pre- and post-9/11 period, particularly in the ways in which the state of Israel is cast as exceptional or the exception, and how the discourses of exceptional victimhood and entitlement operate together to govern members of York University campus in complex ways. Across the study period, the focus on exceptional victim status coupled with the allegations of anti-Semitism against Palestine solidarity groups are intended to delegitimize and distract from the substantive claims being made by these activists, all the while inverting the power dynamics on York University campus, and enforcing an obligation to support Israel. Moreover, as the text illustrates, while campus supporters of Israel consistently iterate that they and the state of Israel are subject to exceptional critique and scrutiny, they also consistently reject being treated the same as other members of the York University

community.¹³¹ This is a replication of what occurs at the level of the state. This steady tension or disjuncture is evident between the reality of Israel's position as regional superpower and occupier and its favoured position with the United States, as opposed to the claim that Israel represents *the* definitive victim. This disjuncture is clearly evident on York University campus, with the narrative of Israel as entitled and marginal having a direct impact on the disciplinary and regulatory logic of the university in relation to student groups and campus discussions.

These threads of continuity across the study period – that anti-Semitism is treated as *sui-generis*, that the exceptional nature of the Holocaust is increasingly strategically linked to the politics of Israel/Palestine in order to delegitimize Palestine solidarity activists, that Israel is personified as the 'collective Jew' - help to explain why the apartheid analysis offered by Palestine solidarity activists is so threatening and so clearly targeted for backlash by Israel advocacy groups. The apartheid analysis explicitly challenges the notion of Israel's exceptionalism by demonstrating that the practices and policies of the state of Israel are grounded in apartheid. As Abu-Laban and Bakan (2010) explain, the apartheid analysis focuses on "state-sponsored 'separateness' of 'races'" and in doing so, "...draws attention to the exclusionary and violent character of the Israeli Zionist project on the indigenous

¹³¹ This phenomenon is demonstrated most clearly in the context of the securitization of the university. For example, pro-Israel campus groups invariably raise objections to being treated the same as other campus-based groups through the application of 'neutral' rules. For example, in response to the fines and suspensions issued after the March 2004 protests, Hillel @ York stated that they were upset that SPHR and Hillel were issued equal punishments "...when clearly SPHR did far more heinous acts than Hillel." (Oliveria 2004b, 1). Stewart adds depth to this history by noting that in February 2009, representatives of B'nai Brith Canada met with the York University president, Mamdouh Shoukri, to discuss the "urgent need to restore order on campus" (Stewart 2010, 53). B'nai Brith Canada objected to the fact that all student groups involved in a February 2009 rally in Vari Hall on York University campus were sanctioned: "we object to the moral equivalency reflected in the decision to suspend not just the groups that promote hatred and are the abuse of agitation on campus, but also those who have been the targets of such aggression." (Stewart 2010, 53; The Jewish Chronicle 2009). This echoes Nadeau and Sears' (2010) observation that supporters of Israeli state policy exceptionalize the state and its supporters by expecting exemptions from universal standards (14).

Palestinian population” (332). In addition, in gesturing to the mobilization against apartheid in the South African context, and to the formal end of South African apartheid in 1994, application of the apartheid analysis in the Israel/Palestine context holds out possibilities for profound structural transformation and change (Abu-Laban and Bakan 2010, 332).

If Israel’s exceptionalism, grounded in the characterization of Israel as both victim and entitled, legitimizes the state and the occupation, but also lends power and weight to the regulatory practices used to constrain those advocating for the rights of Palestinians, the direct challenge posed to this exceptionalism by the apartheid analysis is profoundly disruptive. Put differently, if Israel’s exceptionalism were to stay intact, comparisons could not be made between Israel and other settler states practicing occupation and/or apartheid. The particularly disruptive potential of the apartheid analysis is notable given that Palestine solidarity activists have mobilized around this analysis so vigorously, notably with the formalization of Israeli Apartheid Week in 2005. In this sense, the growing voice given to the apartheid analysis offers at least one clue as to why there has been such a vigorous backlash by Israel advocacy organizations on York University campus in the latter part of the study period covered here.

In the *Excalibur*, the apartheid analysis is most clearly evident after 2004, with the analysis offered that apartheid is not unique to the South African context and that Israel itself can be described as a state that is structurally based on a system of apartheid. Preceding this, in November 2003, scholar and Palestine solidarity activist Norman Finkelstein would speak at York University, describing Israel as an apartheid-like regime (Szekely2003, 1). In a 2004 piece, Muhammad would write that delegates at the InterPride conference in Montreal in October 2003 who endorsed the holding of World Pride 2005 in Israel were

being used as part of a “propagandistic public relations ploy” for an apartheid state (Muhammad 2004, 18). In his letter to the editor, Robert Elgee would similarly describe Israel as a “de-facto apartheid regime” (Elgee 2005, 8).

By 2006, one year after the first Israeli Apartheid Week would be held at the University of Toronto, the language underscoring the apartheid analysis was more firmly entrenched in the pages of the *Excalibur* as was the backlash against it. Mustafa would clearly describe the basis for the analysis in his 2008 opinion piece, writing that exclusive land policies, a separate legal structure, unequal education systems and curfews, and the construction of the apartheid wall were all evidence of the crime of apartheid, with the occupied territories best described as a collection of bantustans (Mustafa 2008, 23). The opposition to the analysis would invariably decry the use of “strong terms like apartheid, genocide and similar words” to create “bias and confuse the informed reader”; the apartheid analysis would be dismissed by Israel advocates as nothing more than “making Jews the scapegoat” (Katz 2006, 11).

Yet, as a text, the *Excalibur* confirms broader scholarship which notes that the apartheid analysis predates the dividing line of 2001, and its use also extends beyond the Israel-Palestine conflict to highlight racialized power differentials in a variety of contexts (Abu-Laban and Bakan 2010; Murray 2008). At York University, Palestine solidarity activists adopted the analysis as early as 1982. For example, at a talk by York Professor Howard Adelman where Adelman cautioned against the use of “exaggerated casualty numbers” in describing the impact of the 1982 Israeli invasion of Lebanon, Monastyrsky reports that a young South African states, “You don’t blame the victims. Apartheid is Apartheid, you condemn it. Zionism is Zionism, you condemn it.” (Monastyrsky 1982, 7). Or, in his address

to the York student council, Bipin Lakhani would also draw parallels to apartheid, suggesting that having been born and brought up in South Africa, he knows what it is like to live under racism, an experience shaping his capacity to name structural racism in the context of Israel/Palestine (Lakhani 1982, 4). In a 1988 letter to the editor, Khouri would discuss a reference to Gaza being Israel's Soweto, a term he identified as being coined by an Israeli Zionist, Meron Benvenisti, a former mayor and head of the West Bank Database Project which studied the socio-economic and political living conditions of Palestinians under Israeli rule (Khouri 1988b, 5). And, in a 1990 letter to the editor, Kutty would call on the York community to reflect on the words of South African archbishop Desmond Tutu who said, "...I cannot myself understand people who have suffered as Jews have suffered, inflicting the suffering of the kinds that I have seen upon the Palestinians" (Kutty 1990, 4).

In 1992, Abrash would offer the first extended and comprehensive analysis of "Zionist apartheid" in his account of Israel as a "brutally repressive apartheid regime" (Abrash 1992, 4). In his letter to the editor, Abrash based his analysis on a history of state-sponsored terrorism against Israel's Arab neighbours and the indigenous Arab populations, the confiscation of Palestinian land through illegal land transfer policies, ongoing human rights violations, a distorted conception of democracy, as well as Israel's close alliance and trade relationship with South Africa (Abrash 1992, 4). In particular, Abrash would draw attention to the Absentee Property Law of 1950 which dispossessed millions of non-Jewish Palestinian Arab inhabitants, classifying them as 'absent', or outside of legal existence, therein denying them any citizenship rights to hold onto their property in the newly created state of Israel

(Abrash 1992, 4). This he would, in fact, contrast to the South African regime, which he described as “at least recognizing its black population as legal persons” (Abrash 1992, 4).¹³²

Of particular interest during this early period is a discourse that emerges during the on-campus mobilization against apartheid in South Africa, a discourse which flags, in part, some of the resistance to the apartheid analysis, but also the complexity of racism, power and differential oppression. Here, beyond noting the links between the state of Israel and apartheid South Africa, comparisons are consistently made in the *Excalibur* between apartheid in South Africa and Nazism. For example, in a letter to the editor, Andrea Meeson of the York Student Movement Against Apartheid (YSMAA) writes in protest of restrictions placed on York student groups by the CYSF. Specifically, as a student group that is described of as ‘political’, the YSMAA is denied funding by the CYSF.¹³³ Meeson writes that apartheid is “Nazism under a new guise”; it is a “‘crime against humanity’ in the words of the UN. As such, apartheid is a human concern” (Meeson 1985, 4). Shelley Weisfeld reports on the same issue of CYSF funding and the YSMAA, citing David Himbara of the YSMAA who asks: “What is not political....Is taking a stand against Nazism political or is it humanitarian? We are no more political than the other organizations.” (Weisfeld 1985b, 3). A few days later, at an anti-apartheid forum held at York University, Weisfeld reports on a speech by Joanne Naiman, a sociology professor at Ryerson University. Naiman equates apartheid with Nazism,

¹³² In both periods, attention is drawn to the strong alliance between apartheid South Africa and Israel. For example, in 1987, Reyes notes the history of good relations between Israel and South Africa (Reyes 1982, 3). In 2003, Dan Freeman-Maloy would note that the IDF supported apartheid South Africa, treating South African statesmen as official Israeli state visits (Freeman-Maloy 2003, 8).

¹³³ Vincent and O’Neill report that under the CYSF constitution, student groups considered ‘political’ are ineligible for club funding. The CYSF bylaws state: “A club will not be affiliated with CYSF if it carries on a political function as defined below and/or as deemed by CYSF. ‘Political’ is defined as having to go with organization or action of individuals, parties or interests that ‘seek to control appointment or action of those who manage affairs of state’” (Vincent and O’Neill 1985, 1).

describing apartheid as a “system of institutionalized Nazism”, and that if the Canadian government has diplomatic connections to South Africa, it should be considered an accomplice to the international crime of genocide (Weisfeld 1985a, 3). Regarding a visit to York University by then Ambassador of South Africa, Glen Babb, Hamalengwa writes in an opinion piece that “Apartheid is a replica of Nazism and must meet the same fate” (Hamalengwa 1986, 8). Or, in 1987, one of the organizers of an event remembering the children of the Holocaust would compare the “...Jewish existence under the Nuremburg Laws during early Nazi rule to present Apartheid measures in South Africa” (Wise 1987, 3). Finally, in a 1990 editorial, the *Excalibur* itself would draw links between the racism of Nazi Germany, the injustice faced by Palestinians in the West Bank and Gaza, structural apartheid in South Africa, and Canada’s systemic racism against Indigenous peoples (Editorial 1990, 4).¹³⁴

For supporters of Israel, part of the strategy to neutralize or disrupt the apartheid analysis involves claiming and reasserting this space of exception in order to depoliticize the acts of the state of Israel, legitimize and justify fundamentally unjust actions against Palestinians, and delegitimize the political and humanitarian stance of Palestine solidarity activists. Across the study period, this is done in several ways. For example, in his letter to the editor, Zatzman characterizes critique of the state of Israel as critique of an underdog, ultimately projecting exception onto apartheid itself (Zatzman 2004, 8). Bernie Farber, chief executive officer of the Canadian Jewish Congress would similarly take issue with the apartheid analysis, saying that “...other than the Holocaust, the most pernicious, vile and evil

¹³⁴ The paper would also run a feature in November 1991 entitled: “The Indian Act is Canada’s apartheid law: How race hatred was incorporated into Canada’s Laws” (Excalibur 1991, 1).

racist event that transpired in the 20th century was the racist regime of South Africa ... and so when the term apartheid is applied to the Jewish state of Israel, it demonizes the Jewish state and demonizes anybody who supports the state of Israel....It is terribly inflammatory” (Brennan 2009, A13).

In his letter to the editor, Zatzman’s primary strategy is to ridicule the analysis as incorrect and absurd, given that Israel is the “only free, democratic country in the Middle East” (Zatzman 2004, 8), a line of argumentation that requires radical inversions of power and ultimately, the erasure of the experiences of Palestinians, and Palestinians themselves. Adam Hummel, president of Hillel@York in the mid-2000s, would similarly describe the political analysis of Palestine solidarity activists as “ludicrous”, with Palestine solidarity activists described as “[having] no idea what they are saying” (Yutangco 2005, 1). Hummel explains that this “...absurd definition of apartheid used to label Israel an apartheid state would mean that most countries fall into that category – Canada would have to impose sanctions on the US, Germany, France, Italy, England, Saudi Arabia, Iran, Russia, China, etc. and these countries would have to impose sanctions on Canada” (Hummel 2006, 7). Supporters of the state would also attempt to delegitimize the apartheid analogy as being an “emotional attack”, and not “constructive criticism” (Paikin 2006, 8).

Mazen Masri would reflect on the kinds of erasures this type of argumentation invokes. Writing about IsraelFest at the University of Toronto in 2005, Masri would note that at the same time that the Arab Students’ Collective was being attacked for hosting its first Israeli Apartheid Week, Zionist groups at the university ended their week of “...strictly cultural activities by erecting a Bedouin tent. The tent was run by non-Bedouins, pretending to be Palestinian Bedouin, happy to be Israeli citizens, enjoying the rights and liberties’

granted by the enlightened Israeli democracy” (Masri 2005, 9). Masri noted that at the same time that the Bedouin Tent was being erected for IsraelFest, Israeli bulldozers were destroying similar Bedouin tents and structures in the Naqab, forcefully evicting residents (Masri 2005, 9). Masri goes on to expose the strategy of depoliticization saying, “No wonder IsraelFest wants to keep it cultural, since showing the whole picture would inevitably show Israel as a brutal and racist state” (Masri 2005, 9).

The backlash against the apartheid analysis also plays on exceptionalism by attempting to insulate the state of Israel from critique by differentiating it from the repressive practices of other states and also by establishing the bounds of proper political engagement for Palestine solidarity activists. In a 1989 letter to the editor, Asher Levy writes that “...equating Israel to South Africa no longer raises eyebrows”, going on to suggest that Israel “is not perfect, nor is it blameless....Yet when compared to what Arab countries regularly inflict on their own citizens, Israel’s actions amount to a drop in the bucket” (Levy 1989, 4). In response to an advertisement taken out in the *Excalibur* by the YASA which protested the Israeli Consul General’s visit to York University in the wake of mass deportations of Palestinians to Lebanon, Goldfarb suggests that the YASA should instead be criticizing Arab governments which “By comparison, Israel’s treatment of a group which through acts of terrorism culminated in their temporary removal, appears rather humane and hardly that of an ‘apartheid government’.” (Goldfarb 1993, 8). In 2004, Jordie Saperia would similarly suggest the appropriate focus of attention of Palestine solidarity activists, taking issue with comparisons made between Israel, “The Middle East’s only democracy”, and the “greatest evils of the 20th century”, including Nazism, fascism, apartheid” (Saperia 2004, 8). Saperia would state that those forwarding the apartheid analysis owed an apology

not to Israel but “...to those black Sudanese, to whose suffering, slavery, mass rape and murder they have turned a blind eye, and thus allowed to continue” (Saperia 2004, 8).

In sum, the moral legitimacy of Israel’s statehood plays on the power of the exception, and is achieved simultaneously through appeals to both victimization and entitlement; this is a continuous thread across the study period. With Israel cast as a stand-in for all Jewish people, these dynamics are projected transnationally and surface on York University campus where Israel advocates attempt to depoliticize the efforts of Palestine solidarity activists. This interplay between victimization and entitlement is powerful in that those Jewish students who do not find that their identity is coterminous with the Zionist project are marked as inauthentic and are not even afforded the status of political dissident. They must either wait for the indefinite insecurity facing Israel and Jews to be resolved, evacuate themselves from the discussion or stake their claim to an oppositional politics and bear the costs therein. For Palestine solidarity activists who are Palestinian, and/or Arab and/or Muslim, the costs of these narratives of morality are also high, not simply because they are cast as security threats, a point to which I will return later, but because their own experiences are deemed illegitimate, or their own political subjectivity is denied.

In these ways then, the notions of exceptionality informing the political landscape of Israel-Palestine on York University campus are important because they point to continuity across 9/11 - a steady historical discursive context in which dissident citizens are regulated and through which varying forms of repressive regulations are authorized, legitimized and depoliticized. This is not to suggest that there are no shifts in the regulation of Palestine solidarity activists. The larger point in this section regarding the backlash to the apartheid analysis is that the heightened backlash against Palestine solidarity activists in what is

loosely termed the post-9/11 period is notable not necessarily because of the terrorist attacks of September 11, 2001, but rather because Palestine solidarity activists had mobilized so much more effectively around the profoundly disruptive apartheid analysis, a choice which is not linked to 9/11, but perhaps more so to the World Conference Against Racism held in Durban, South Africa, prior to September 11, 2001 (Abu-Laban and Bakan, forthcoming). In fact, the continuities signalled through this analysis of the exception are significant in a number of ways. For example, the notions of exceptionality at play here are important because they can provide an undercurrent of legitimacy to racism, xenophobia, and anti-Muslim racism by formally normalizing it through the characterization of Israel as victim. This is particularly important in that, unlike the discussion of Québec nationalism in Chapter 2, the promise here is not simply that once Israel gets where it is going that the state will exhibit more tolerance and that the situation will be better for everyone. Rather, in some cases, the promise is that Israel is *already* benevolent. Perhaps most significantly, the analysis of the exception in this case study demonstrates that while institutional recognition of racism might conventionally signal success for anti-racist groups and citizens, this particular recognition is not straightforward in that recognition and institutionalization of the 'new anti-Semitism' are not simply signs of 'progress' as a liberal narrative might recount.



Chapter 5: Disciplining Dissident Citizens: Palestine Solidarity Activists, Securitization and the Perils of Inclusion

5.1 INTRODUCTION

In the previous two chapters, I traced a timeline of the regulation of Palestine solidarity activists in Canada after September 11, 2001, arguing in Chapter 3 that while the post-9/11 context seemed particularly contentious, other markers of time might explain the heightened regulation of these citizens who can be characterized as dissident. In Chapter 4, I considered the empirical evidence, analysing York University's community newspaper, *Excalibur*, over a 30-year time period (1980-2010), focusing on the ways in which Palestine solidarity activists are governed through notions of the exception. There I argued that evidence from the *Excalibur* demonstrates significant continuities across the pre- and post-9/11 periods, particularly with respect to the ways in which discourses of exceptional victimhood and entitlement operate to govern members of York University campus in multifaceted ways. This chapter continues the analysis of the findings in the *Excalibur*, with the analysis clustered along two key dimensions: governing through crisis and security, and governing dissent. I argue that important consistencies in the regulation of Palestine solidarity activists are evident across the study period, in particular the exceptionalizing of those issues and debates related to Israel/Palestine. Put differently, across the study period, when pinned to the issue of Israel/Palestine, liberal principles such as academic freedom, freedom of speech, dialogue and civility are depoliticized at the same time that they are sites in which there are profound exertions of power. In addition, this chapter argues that the trajectory of the regulation of Palestine solidarity activists is not simply one of continuity. Shifts in strategy are evident on the part of Israel advocacy organizations, as well as shifts in

resistance and mobilization on the part of Palestine solidarity activists. What emerges is a complex history which confirms that the regulation of citizenship not simply relational and differential, but also multi-scalar in that it is regulated in and through a variety of interacting milieus: institutional, domestic and transnational. Moreover, the chapter demonstrates that seemingly neutral measures of progress and change may in fact skew how we understand the regulation of citizenship over time.

5.2 GOVERNING THROUGH CRISIS AND SECURITY

As explained in Chapter 1, other than conceptions of crisis that are related to nationalism and 'soul-searching' with respect to identity, broader conceptions of in/security tend not to figure prominently in mainstream liberal Canadian citizenship analyses. Again, this erasure is notable given that security as a first freedom or right is a foundational component of the liberal tradition and the liberal social contract (Dhamoon 2010, 257). To the state we surrender our power to protect our lives and our property, and in return, the state secures us against each other (Dhamoon 2010, 257). In a basic sense then, at least some notion of in/security should seemingly be integral to even mainstream Canadian analyses of Canadian citizenship. This does not, however seem to be the case.

Given that security is an exceedingly powerful and elastic form of governance and regulation, the submersion or evasion of security and securitization in the mainstream liberal literature provides for a moment of pause. As Larsen (2006a) notes, security is a notoriously difficult concept to pin down. Security has been variably treated as an objective goal to be achieved, a commodity for exchange, and a subjective state of being (Larsen 2006a, 48). Moreover, as securitization scholars remind us, security does not simply refer to a fixed state of being: "...acts of security are performative, dynamic, and formative of social and

political life.” (Nyers 2009, 3). In these ways, the sliding and deeply contextual nature of security means that security has been, and can be used to legitimize a whole host of exclusionary policies which target a variety of dissident citizens, ultimately depoliticizing these subjects, and transforming them into an ever “evolving list of perceived threats” (Larsen 2006a, 49).

In addition, as already noted in Chapter 2, security has been and can be used to legitimize oppressive terms of regulated inclusion, particularly given the context of historical and ongoing colonialism. In this way, security and insecurity operate together; they are mutually reinforcing and co-determinate (Nyers 2009, 3). At various times and in various contexts, Indigenous people, racialized non-citizens, communists, socialists, anarchists, leftists, black activists, and sexual minorities, among others, have all been labelled security risks when in fact, it is they who are faced with grave insecurity, often at the hands of the state (People’s Commission 2007, 13). As expressed by Nyers, “...the citizen that needs to be secured is not the same as the secured citizen.” (2009, 3). Put differently, both ideas and bodies have been securitized through notions of dissidence.

By centering securitization in this case study on the regulation of Palestine solidarity activists as dissident citizens, the securitization lens reframes how the politics at play are not simply those related to identity, religion and/or culture. Where the assumption might be that conventional security discourses might only be implicated in the governance of dissident citizens in the post-September 11 2001 context, the text studied here illustrates how broad and varied dimensions of security are at play from the beginning of the study period, offering an important point on which to intervene with respect to transitions in citizenship over time.

This section begins with a discussion of the context in which dissident citizens on York University campus are regulated. In a process far predating the events of 9/11, the institution of the university is securitized. Two consistent processes ‘working on’ the institution of the university over the study period are corporatization and neoliberalization, and militarization, processes that are simultaneously identified in the text as forms of regulation to be protected and resisted. In this way, there is clearly a double movement. While the articles, features and letters in the *Excalibur* define the processes of corporatization and militarization as threats themselves, these processes come to define dissident citizens or dissident York University community members as threats to the university, and not as citizens to be protected. These are citizens that the university needs to be secured against, not to secure. Yet, this fairly steady characterization of the university as a dissident and independent space where corporatization, neoliberalization and militarization threaten the liberal values of the institution (i.e. academic freedom) only seems to apply consistently when looking at political struggles not related to Israel/Palestine.

The second part of this section probes the Israel/Palestine exception to examine how on York University campus, corporatization and militarization have had very particular consequences for Palestine solidarity activists as dissident citizens, with Israel advocacy organizations strategically able to target the university as a political space because of these twin trends. In the broadest sense, over the study period, Palestine solidarity activists consistently experience insecurity on York University campus, despite strategic inversions of power where they are portrayed as singularly threatening. This section examines three key controversial moments in the post-9/11 period – a visit to York University by Campus

Watch founder Daniel Pipes, the extraordinary government and university interventions into the “Israel/Palestine: Mapping Models of Statehood and Paths to Peace” conference, and the university’s response to dissident political activity in a campus building called the Vari Hall Rotunda. During these three moments, the securitization of the university operates through radical decontextualization and depoliticization, evident in approaches to academic freedom, the pressure posed by Israel advocates, and the militarization and regulation of campus space. Tracing these discourses and modes of regulation back demonstrates that while these are not unique to the post-9/11 period, there is a deepening that has occurred which may be most directly linked to the longer-term historical trends of militarization, neoliberalization and corporatization.

5.2.1 Securing the dissident institution or securing the institution from dissidence?

In the context of the racial state, discourses of in/security are deeply political in that they are profoundly racialized and gendered. In this way, discourses of in/security can be ambiguous in that it is not empirically clear why specific actors or institutions are deemed to be at risk and why these conceptions of risk may shift over time. This is particularly the case when processes of securitization rely on radical inversions of power in terms of casting the roles of ‘threat’ and ‘threatened’, a dynamic clearly illustrated in my previous discussion of the discourse of the ‘new anti-Semitism’.

In addition, these ambiguities of in/security are political precisely in that they are treated as apolitical. Just as racialization normalizes race as an essential and concrete artifact, securitization normalizes particular versions of in/security and particular threats as real or common-sense. In this way, to question what it means to be secure can be a profoundly dissident act. As more conventional security frames are applied in defining a

threat or danger, the ability to request and receive explanations is increasingly frustrated. Moreover, those seeking explanation or challenging the legitimacy of particular definitions of security are subject to the full weight of sovereign and disciplinary forms of power.

Chapter 4 highlighted the ways in which casting Israel as an exception laid the groundwork for attempts to reign in and regulate dissident citizens by linking the perceived insecurity of Israel as “The Jewish state” to the perceived insecurity of Jewish students on York University campus. With respect to the in/security of individual students, engagement with the formal language of security in terms of terrorism is evident across the study period, but a heightened version of this kind of framing seems to coincide with transnational geopolitical conflicts, becoming more clearly pronounced after 9/11.

Within this framing, Palestinians are often described as terrorists, all political forms of resistance against the occupation are described as terrorism, and Palestinians are deemed singularly responsible for and capable of choosing to end terrorism. The focus on insecurity is narrow. The occupation is not a source of insecurity, because if it were, the insecurity of Palestinians would matter. Rather, it is Palestinian or Arab terrorism that is the problem, with children in Israel being trained from an early age to be suspicious (Baranek 1985, 8).

As early as 1981, conflict is apparent between the All Students Union Movement (ASUM) student group and the Jewish Student Federation, over the choice of the latter to host a Symposium on Terrorism, a symposium which the ASUM described as conflicting in principles with its Anti-Racism Symposium (Jancaur 1981, 5). Despite being evident across the study period, a more heightened focus on terrorism and the insecurity of the state of Israel, Israeli Jews, and all Jews is similarly evident during the period of the Israeli invasion of Lebanon in 1982 (Buchbinder 1982, 4; Eisen 1982, 4; A.J. Robinson 1982, 6) and the

Persian Gulf War in 1990-1991. Similarly, across the study period, Palestine solidarity activists resist by naming and confronting state-sponsored terrorism by the state of Israel (Chomsky 2015), an argument itself that is then described of as causing insecurity for Jewish students.

For example, in response to what is described as an “unsanctioned anti-terrorist rally” in Vari Hall organized by CUPE 3903’s Anti-Racism Working Group (ARWG), two members of the Jewish Student Federation state that they:

“...noticed a sharp turn in events when speakers referred to Israel [*sic*] political leaders as perpetrators of such terrorism. ‘I’m surrounded by people who want to see the destruction of Israel, those who talk about how horrible Israel is and they don’t even know the facts,” says Rebecca. At this rally about Canada’s anti-terrorist legislation, the Wortzman sisters felt that the assembly was a continuation of past rallies, perpetrated by ARWG, that conveyed anti-Semitic views.... ‘I hate coming to school knowing a rally is going on. It’s extremely intimidating,’ says Rebecca.” (Richards and Braz 2001, 1).

Here, the threat to Israel is a direct threat to Jewish members of the Jewish Student Federation; the state, the JSF and Jewish students are one and the same, and in this case, they are characterized as being endangered by the anti-racism working group of the union.

The broader point to note is that while actual anti-Jewish racism is to some degree tracked by the *Excalibur*, the text illustrates the ways in which discourses of in/security do not simply acknowledge experienced precariousness. Rather, processes of securitization move beyond subjective experience, and are critical to the formulation and regulation of political subjectivities (Nyers 2009, 3 - citing Massumi 1993). As Nyers (2009) suggests, this kind of productive power is not insignificant as, “Some of the most distinctive political acts today involve exclusion that are enabled by employing ‘risk’, ‘danger’, or ‘insecurity’ as categories.”(4).

In this sense, a securitization lens is useful in terms of tracking who or what has been deemed a threat, why they have been deemed a threat, and how this threat is managed through different regulatory strategies and mechanisms. As previously discussed, in the case of Palestine solidarity activism, discourses and spaces of exception are productive in that they create and define particular subjects as either inauthentic, dissident or outside of politics. To be clear, however, there is some power to be derived from being defined as dissident given that, at a minimum, dissident citizens are seen as political. In the context of this case study, the way in which these in/authentic or dissident subjects are regulated is deeply connected to the securitization of the university itself, a process that is the primary focus of this section.

Universities are interesting sites of analysis in that their role and function are contested. Wilkinson (1994) for example describes universities as a collectivity of scholars shaped by a dual ethos of intellectual growth and societal change (325-326). For Wilkinson, universities are forces of progress, sanctuaries for “creative imagination”, and a “provocateur of new aesthetics, beliefs, and codes of conduct” (1994, 328). They are the “only” institution where intellectual freedom or the cultivation of novel and alternative modes of framing reality can thrive (Wilkinson 1995, 330). From this perspective, scholars share a commitment to teaching and learning, even as they function within and interact around a hierarchy of academic values (Wilkinson 1994, 325-326).

Chomsky echoes this, suggesting that intellectuals are well positioned to “...expose the lies of governments, to analyze actions according to their causes and motives and often hidden intentions” (Chomsky 1967, 1). Intellectuals are well positioned to do this because of political liberty, access to information and freedom of expression (Chomsky 1967, 1), and

intellectuals have a responsibility to challenge, expose lies, and historically contextualize events (Chomsky, 1967, 27). Roberts similarly describes the academy as a space “...for the development of critical intellectuals” who are involved in a struggle to better the world (2005, 453) or hold a responsibility and capacity to contribute to a just and equitable world (Chovanec et al. 2012, 2).

Adopting a more power-oriented perspective of the institution itself, Brennan et. al (2004) cites Castells (2001) and describes universities as ideological apparatuses that sort, select and socialize dominant elites (Brennan et al. 2004, 26). Universities do generate knowledge and provide expertise but this is not necessarily their major function; rather, they provide a skilled labour force of highly trained individuals (Brennan et al. 2004, 26). Moreover, particularly during periods of great change, universities can and *do* play a significant role in terms of helping to “...build new institutions of civil society, [encouraging] and [facilitating] new cultural values, and [training] and [socializing] new members of new social elites” (Citing Castells - Brennan et al. 2004, 16). Schueller adds to this, describing universities as being both integral to neocolonial globalization, militarism, imperialism, and orientalism, but also a “changed scene of colonial difference where subaltern knowledges are gaining currency” (2007, 43). In this way, universities are spaces of colonial difference “...where the decolonizing of knowledge, indeed the subalternizing of European knowledge, has been taking place” (Schueller 2007, 43). In this sense, universities are hierarchical and disciplinary institutions, that can be catalysts for change, can accelerate existing change, but also block change (Brennan et al. 2004, 16; Wilkinson 1994, 326). Alternatively, the university is also variably cast as “harboring a hot-bed of leftist academics and promoting culture wars that derided Western civilization” (Giroux 2006b, 67). As Giroux (2006b)

explains, beginning in the 1970s and in reaction to the racial politics of the 1960s, universities have been characterized as the site of a “class and race war” marked by a division between liberal elites and the white working class (67). This right-wing backlash against the university would accelerate after 9/11 as dissident academics would be increasingly faced with accusations of treason (Giroux 2006b, 67).

While the role of universities is contested, there is general agreement that universities are among the most influential social institutions in contemporary society (Wilkinson 1994, 329), with scholars noting more specifically the seminal and formative role universities play in cultivating citizens (Shultz et al. 2011, 1; Llamas 2006, 666).¹³⁵ At a minimum, there are two important consequences of this intimate link between universities and the cultivation of citizens. First, the securitization of the institution of the university will have direct yet differential regulatory consequences for citizens or members of the campus community. Second, if, at a minimum, universities are sites of power, and if the idealized university is “designed” to be unsettling (Cole 2005, 13) in that it is guided by “openness, rigor, fairness, originality and skepticism” (Cole 2005, 7), the state’s interest in, and suspicion of universities is of no surprise.¹³⁶ If then, James L. Turk, the former executive director of the Canadian Association of University Teachers (CAUT) is correct that “The integrity of universities is always at risk”, looking at York University through the lens of

¹³⁵ Certainly a contentious point to make in the current climate of university restructuring, Llamas (2006) notes, for example, that the core of the liberal academic model is the development of the student as a citizen and less so as a consumer or future worker (666).

¹³⁶ Cole writes that the research university is “designed” to be unsettling: “...it is committed to the creation of *new* knowledge and the intellectual growth of its students, the university must nurture the expression of novel and sometimes startling ideas and opinions.” (Cole 2005, 8 – emphasis in original). This is why the university “...will always have – and must welcome – dissenting voices and radical critics” (Cole 2005, 9).

securitization is useful in terms of mapping out temporal changes and continuities in the regulation of these particular citizens (Turk 2012).

This contestation over the purpose of the institution of the university is evident over the 30 year time period covered and represents a struggle over what is in crisis, what needs to be secured and who or what it needs to be secured from. By and large, the dominant representation of the university in the *Excalibur* is, at a minimum, as a profoundly liberal space and more radically, as a dissident space. For example, in 1982, the Council of York Students Federation (CYSF), the precursor to the York Student Federation (YSF), described the purpose or aims of the university in the upmost liberal terms as:

...a community of faculty and students dedicated to the pursuit of truth, the advancement of knowledge and a place where there is freedom to teach, freedom to engage in research, freedom to associate, freedom to write and to publish. These freedoms can only be fully realized if the University is secure from external constraint, and if internally an environment is nourished...and which is characterized by mutual consideration, restraint, and tolerance among all of its members.... (“Advertisement: Does York University need an Ombudsman? Yes.” 1982, 8).

Here, the stress is on negative freedoms and on the university as “...a forum for the free expression of a wide range of controversial viewpoints and opinions - a forum guided by the notion of freedom of academic expression.” (“Editorial: Speechless” 1983, 4). The focus on the university’s motto - *Tendata Via* (The Way Must be Tried) - calls for exposure to differing perspectives through academic freedom and free expression (“Editorial: Speechless” 1983, 4). That the institution might restrict these commitments is viewed as deeply problematic (“Editorial: Speechless” 1983, 4).

The university is also described as a more dissident space. For example, in the context of an editorial criticizing a proposed rise in tuition, the *Excalibur* suggests that the

integrity of the university is not simply based in freedom of speech, but an institution premised on “questioning everything” (“Editorial: Rise in tuition should surprise no one” 1997, 8). In 1991, the *Excalibur* reprints a 1968 *Excalibur* editorial linking the integrity of the university to an active student body that should take ownership of the institution:

We need people who care about what’s happening in our universe. We need people who are probing and opinionated. We need people who give a damn about this university. We need people who think the system here at York is wrong and should be changed. We need people who think we’re not getting a good education. We need people who feel the faculty is ignoring us. We need people who want administration changes. We want change. (“Editorial: This University Belongs to the students” 1991, 1).

This call for an active student body is evident early in the study period in an editorial that commends a “reborn activism” at York and the disruption of the “widespread apathy” at the university (“Editorial: Actions on S. Africa signal reawakening of political interest” 1986, 8). Credit for this reawakening is given to the anti-apartheid divestment initiative at York which targeted the university’s investments in South Africa (“Editorial: Actions on S. Africa single reawakening of political interest” 1986, 8). The *Excalibur* commends the York Student Movement Against Apartheid (YSMAA) group for making York “a centre of progressive action” (“Editorial: Actions on S. Africa signal reawakening of political interest” 1986, 8).

These descriptions of the university as a dissident space are significant in that they call for and normalize particular kinds of institutional citizens and particular kinds of institutional politics. This dissident institution is one in which the university community and the public can and should stake a claim on the institution. For example, in an editorial discussing the links between the American military and research performed at the York-based Institute for Space and Terrestrial Science, Edward Prutschi writes that as publicly

funded entities, the public has a right to know about every aspect of the research being conducted at universities (Prutschi 1993, 1).

What threatens this dissident institution? Over the 30-year time period, the twin processes of corporatization/neoliberalization and militarization are identified as the dominant threats to the university as a dissident institution. Both of these trends have direct consequences for how citizens are regulated within this institutional space, and both of these trends are apparent in the pre- and post-9/11 period.

Threat to the dissident institution: Corporatization and Neoliberalization

As early as March 1988, concerns over the link between “the business community and universities” is profiled, with Howard Kaman writing of the progressive and simultaneous corporatization and public underfunding of universities =as beginning in the mid-1970s (1988, 11). In a 1992 feature on the issue, David Noble is cited as describing the ways in which universities have, since the 1970s, become central to the political economy as sources of “intellectual capital” (Excalibur 1992, 8). Because of their importance, universities have become “...in the view of the people who run the society, much too important to be left to themselves.” (Excalibur 1992, 8). Noble goes on to describe how industry sees universities as sites where the economic risk of doing research is socialized whereas the benefits are privatized through a whole host of proprietary structures (Excalibur 1992, 8). The “hijacking” of the university by industry is occurring not simply from without - through corporations, government agencies and military agencies - but also from within, through insiders who sit on the board of large multinational corporations, etc... (Excalibur 1992, 8).

Here, the role of the university itself is contested. Should the institution “...deal with issues like social transformation, with issues like trying to educate the broadest possible

group of people” or is the institution a “narrowly focused institution which only takes a small group of people and eliminates others.” (Kaman 1988, 11)? Put differently, a 1998 editorial questions whether York will be “an institution of learning” or an “institution of earning” (Editorial 1998, 4). In a 1997 article regarding the invitation to corporations to sponsor online courses for a minimum of \$10,000, Sharon Aschaiek cites David Noble as lamenting the university as a “sanctuary” for learning, “not buying and selling” (1997, 2). And, regarding the controversy over then-University of Toronto President Robert Pritchard lobbying the federal government in support of Apotex, Canada’s largest drug manufacturer and a key donor to the University of Toronto, then executive director of the CAUT, James L. Turk stated that universities exist for the public interest which is “...precisely why the university’s embrace of the corporate sector fundamentally compromises the university’s role in a democratic society” (Luksic 1999, 9).

This tension between the university as open and accessible and the university as an elitist “servant of the private sector” is apparent across the study period (Kaman 1988, 11), with a public forum held at York University in September 1992 on the corporate control of universities and the impact of the Corporate-Higher Education Forum (CHEF) (Editorial 1998, 4) and at least 27 features or articles on the issue.¹³⁷ This relationship between

¹³⁷ See for example: *Excalibur*, “Never Trust a Professor: Robin Wood speaks on cynicism and corporatization in the university”, *Excalibur*, September 7, 1994, 24-25; Meg Murphy, “Corporate Donors invade U of T”, *Excalibur*, March 5, 1997, 7; Chris Bodnar, “University of Ottawa skating on thin ice”, *Excalibur*, November 5, 1997, 5; Meg Murphy, “Too many strings; Munk’s U of T donation criticized”, *Excalibur*, December 3, 1997, 1,4; Kip Bonnell, “Tobacco firm donation controversial”, *Excalibur*, February 4, 1998, 1; Meg Murphy, “Ma Bill’s big bucks”, *Excalibur*, March 4, 1998, 1; Sonia Verma, “McGill’s chapter; New chapter begins for Canadian campuses”, *Excalibur*, March 25, 1998, 1; “Editorial: Harris’ hypocrisy, yours to discover”, *Excalibur*, June 3, 1998, 4; “Editorial: The heavy hand of York”, *Excalibur*, July 8, 1998, 4; “Editorial: Pepsi police on permanent patrol”, *Excalibur*, September 30, 1998, 12; Angela Pacienza, “Pepsi protest paralyzed: Free speech questioned after silenced protest”, *Excalibur*, September 30, 1998, 1, 7; Roy Anger, “Winters questions cola cash”, *Excalibur*, October 7, 1998, 1; Miguel Martin, “Pepsi logos infiltrate campus”, *Excalibur*, October 8, 1998, 3; Blair Dowell, “Pepsi deal’s far-reaching impact: Letters”, *Excalibur*, October 7, 1998, 4; Tara C Brautigam, “The age of

universities and corporate donors receives extensive attention in the *Excalibur* in the late 1990s, with coverage touching on a number of controversial arrangements/partnerships at York University as well as on other Canadian university campuses.¹³⁸

Resistance to the corporatization of the university is also evident in the documentation of multiple strikes on York University campus. For example, in 1997, two Graduate Student Association (GSA) executive members wrote a letter to the York administration asking for a formal retraction of the administration's letter naming and threatening nine student leaders with academic penalties and police arrests; the individuals and student groups named in the letter had occupied the president's office and planned an "illegal" picket regarding rising tuition and fees (Mayhall and Zmolek 1997, 11). On March 2, 1998, York students broke up a Board of Governor's meeting, protesting the impending announcement of a tuition fee increase (Pacienza 1998, 7), to which then-President Lorna Marsden put students "on notice to bring [their] behaviour in line with the Standards of Student Conduct." (Marsden 1998, 14). That summer, a meeting between several Toronto area university presidents was disrupted by students protesting rising tuition fees in the

corporate education dawns", *Excalibur*, October 14, 1998, 3; Miguel Martin, "Marchi puts Canadian education for sale on global market", *Excalibur*, October 14, 1998, 6; Miguel Martin, "Stubborn trio exorcise campus demons", *Excalibur*, November 11, 1998, 11; Derek Chezzi, "University oils slick deal: Imperial Oil gives York \$1M gift, critics wary", *Excalibur*, January 20, 1999, 1; Derek Chezzi, "Administrations says no strings attached", *Excalibur*, January 20, 1999, 4; Nicola Luksic, "U of T president comes under fire", *Excalibur*, September 22, 1999, 9; Reka Szekely, "Leaders demands resignations", *Excalibur*, March 1, 2000, 5; Jon Bricker, "U de Montréal prof quits over campus ads", *Excalibur*, March 22, 2000, 1; Avy Ben-Zvi, "Opinions: York's tyranny", *Excalibur*, April 5, 2000, 9; Ivano Stocco, "Tory task force angers students: Critics worry pro-business agenda will harm liberal arts", *Excalibur*, September 27, 2000, 4; "Corporate U under fire", *Excalibur*, March 9, 2005, 2; Big Bill Haywood, "Cash flow and coordinated repression: Long live the York Foundation!", *Excalibur*, February 2, 2005, 2; Andrew Macdonald, "Academic freedom under siege", *Excalibur*, November 21, 2001, 3.

¹³⁸ This includes the outsourcing of the management of McGill University's bookstore to Chapters; York University's pursuit of an exclusivity deal with Coke and/or Pepsi; the decision of Dalhousie University Dean of Business Administration to collaborate with the Information Technology Institute to offer an MBA degree in information technology, the first time a Canadian University would offer an MBA program with a corporation; the establishment of the Education Marketing Advisory Board by the Minister of Foreign Affairs and International Trade to provide advice on how to promote education on excursions designed to increase foreign investments in Canada, and; concerns about donations made to universities by corporations (e.g. Apotex).

wake of the Harris government's deregulation of tuition fees in many programs like medicine, engineering, computer science and pharmacy (Ahmed and Pacienza 1998, 3).

In the fall, Angela Pacienza reported that York University's athletics department and York Security had moved an anti-Pepsi banner by two students at a football game; the banner was in protest of a multimillion dollar, 10 year exclusivity contract between Pepsi and the university (Editorial 1998, 4). The following year, Liav Koren reported on a nationwide campaign called "Access 2000" to be led and launched by the Canadian Federation of Students (CFS) aimed at educating students and the government about cuts to the accessibility to post-secondary education leading up to a national day of action in February 2000 (1999, 5).

In addition to these protests focusing on government cuts and accompanying tuition increases, the corporatization of the university is increasingly refracted and confronted through the lens of anti-globalization, anti-war, anti-racism, anti-imperialism and anti-oppression movements. These links become evident in reports, commentary and letters on the repression of protesters at the 1997 APEC Summit, the World Trade Organization (WTO) meetings in Seattle, (Merzaban 1999, 1), The Québec Youth Summit (Excalibur, March 1, 2000), the Free Trade Area of the Americas (FTAA) meetings in Québec city (Théoret-Poupoart 2000, 5), and the post-9/11 attacks and invasions of Afghanistan and Iraq (Aldini 2001, 1; Oliveria 2002a, 1; Braz 2003, 1).

The coverage in the *Excalibur* is significant in that it demonstrates that the corporatization of the institution and the concern over corporatization far predate 9/11. As early as 1988, the university is characterized as threatened by corporatization, with explicit concerns expressed over the: 1) independence of the institution, 2) the integrity of academic

freedom, and 3) the capacity for dissent (Aschaiek 1997, 2; Editorial 1997, 8; Murphy 1997, 1).

Demoralizing: Threats to institutional independence

As a sister organization of the American Business-Higher Education Forum, the Corporate-Higher Education Forum (CHEF) was founded in 1983 and established “...to bring the leadership of major Canadian private and public corporations into contact with the presidents, principals, and rectors of the country’s universities.”¹³⁹ In its first published report, the CHEF argued that universities should prioritize their compatibility with “industrial culture” by abandoning ideals such as autonomy and academic freedom (Newson 1998, 1). CHEF focused on pressuring universities to align themselves with market demands, as well as on incentivizing corporate partnerships for universities (Woodhouse 2014), a phenomenon highlighted in an *Excalibur* profile of Professors David Noble, Janice Newson, Linda Wayne and Claire Polster in the early 1990s (*Excalibur* 1992, 8). The *Excalibur* also reports that defunding through cuts to transfer payments and then the selective refunding to industrially compatible research had been ongoing since at least 1987 (*Excalibur* 1992, 8), but a trend best identified as starting in the 1970s.

This pressure on university administrations to align the institution with industry would be accompanied by deep cuts to post-secondary education, particularly in Ontario in the mid-1990s with the election of the Mike Harris Conservative government (Freeman-Maloy 2007, 25). Derek Chezzi reported that funding to Ontario universities and colleges was cut by \$400 million between 1995-1999 and by \$2.92 billion between 1994-1999 for all

¹³⁹ See Archives and Special Collections Catalogue, Concordia University, “Corporate Higher Education Forum fonds”. Accessed March 13, 2016. <http://concordia.accesstomemory.org/corporate-higher-education-forum-fonds>.

Canadian post-secondary institutions (1999, 1). These cuts would raise the stakes for the York administration's main fundraising drive, the 'National Campaign', which was launched in 1996 (Dan Freeman-Maloy 2007, page 25). In addition, these cuts would also increase the incentive for universities to partner with industry, arrangements that at times involved corporate partners paying up to half the cost of a research project in exchange for some measures of control over the content or parameters of the research (*Excalibur* 1992, 8).

In 1999, Derek Chezzi reported on criticisms of a supposed "no strings attached" donation from Imperial Oil to York University, with then YFS President Dawn Palin cautioning that corporations would "...have control over what [would] be the best-funded programs at university." (1999, 1). Critique of corporatization would also accompany decisions to award honorary degrees to corporate elites, such as a decision by the University of Toronto to grant former United States President George Bush an honorary doctorate in 1997 (Brautigam 1997, 5). The allegation here was that the university was granting degrees with the intent to gain financially (Brautigam 1997, 5). Significantly, Bush's honour was reported on as ethically dubious for the institution because of his role as a senior advisor on Barrick Gold's international advisory board, a multinational corporation involved in documented human rights abuses through its mining practices (Brautigam 1997, 5). Peter Munk, then chairman of the University of Toronto fundraising campaign, as well as the chairman and founder of Barrick Gold had already been awarded his own honorary doctorate two years prior (Brautigam 1997, 5).

To be clear, however, the dissident university that emerges in the pages of the *Excalibur* is not one that is completely independent. For example, citing James Turk, then-executive director of the CAUT, Nicola Luksic writes of universities as "[existing] for the

public interest”, a mandate that is compromised when universities embrace the corporate sector (1999, 9). Others suggest that the independence of the university is actually rooted in appeals to the institution as a moral space. For example, in 1986, Gary Symons and David Byrnes write about a vote of the All University Pension Committee to determine whether York would become the second university in Canada to divest from South-African linked companies in its pension fund (1986, 1). Symons and Byrnes identify the basis for the call to divest as “moral responsibility to demand that...money not be invested in corporations that support this racist regime” (1986, 1).

In the early stages of the divestment campaign, a member of the York University Divestment Committee (YUDC) would comment that he was impressed by the cooperative response of the York administration and then-President Harry Arthurs in not engaging in obstructive tactics, nor in devolving responsibility over to the federal government’s Code of Conduct as had been the case in universities like the University of Toronto (Symons and Byrnes 1986, 1; Editorial 1986a, 8; Editorial 1986b, 8). President Harry Arthurs is also lauded for actively expressing personal support and commitment to the divestment initiative. In this way, the co-chairperson of the York Student Movement Against Apartheid (YSMAA), David Himbara, described the divestment campaign as a “...joint effort between the students, unions and administration” (Byrnes 1986, 2).

While the divestment campaign would experience significant resistance from the 8-member Pension Fund Board of Trustees of York’s Board of Governors, the characterization of the university as an independent but moral institution would persist (Byrnes 1986, 2). The board’s rationale for delaying its approval is described as an embarrassment to York’s administration, a violation of the good-will among many interests, and an action that

destroys the unity of purpose evident in earlier phases of the divestment campaign (Desfor and Himbara 1986, 9). In one letter, Gary Hackenbeck writes that the Board has evaded, “responsibility, integrity, foresight, honesty and intelligence” (1986, 9), and Esiri Dafiewhere echoes this, suggesting that York “...will lose face, lose its integrity and dedication to academic excellence and the noble ideals of human rights, freedom, equality, justice and truth...” (1986, 9). For Dafiewhere, investments in South Africa “bankroll apartheid” and yield “blood-money”; York must choose “...*morality before monetary prudence*” (1986, 9 - emphasis in original). Even then-York President Harry Arthurs urged the board to reconsider, saying that “...the university is committed to the values of enlightenment, humanity...which are the negation of apartheid” (Bray 1986, 1).

While this notion of a moral obligation on the part of the institution would accompany much of the reporting on the South Africa anti-apartheid divestment campaign, concern over the moral integrity of the university is apparent in other cases. For example, the York community is reported as “outraged” after learning that the university’s pension fund had \$7.4 million invested in Talisman Energy Inc., a Calgary-based oil company accused of helping to fuel the civil war in Sudan (Pacienza 1999, 1). Then-director of public policy with the CAUT, David Robinson, described “engaging in corporations that engage in highly immoral activities” as “beneath the university” as a public institution (Pacienza 1999, 1).

Risky speech or risking speech? Neoliberalization and the threat to academic freedom

The basic premise underlying the protection of academic freedom is that academics must be able to “engage in research, develop pedagogies, govern universities and express ideas publicly” in order for societies to thrive (Jeppesen and Hazar 2012, 88). As Cole (2005)

writes, universities are the “greatest engine of new ideas” precisely because dissident voices are granted the freedom to examine and inquire (6). In this way:

Academic freedom is the life blood of the modern university. It is the right to teach, learn, study and publish free of orthodoxy or threat of reprisal and discrimination. It includes the right to criticize the university and the right to participate in its governance. Tenure provides a foundation for academic freedom by ensuring that academic staff cannot be dismissed without just cause and rigorous due process. (CAUT 2005)

In a 2011 policy statement on academic freedom, the CAUT further elaborates that the independent thinking fostered by academic freedom enables post-secondary educational institutions to serve the democratic common good (CAUT 2011b). This is a broad definition of academic freedom, where there is no imperative to neutrality, and where academic freedom includes freedoms implicated in pedagogy, performance, research, dissemination, service, acquisition, preservation, accessing and providing access to, as well as participation. Critically, academic freedom is rooted in freedom to express and research *without reprisal or interference* (Rancourt 2010, 1). Moreover, academic freedom requires that academic staff play a major role in the collegial governance of the institution (Rancourt 2010, 1). In this sense, academic freedom and governance are intimately tied, given the importance of transparency and public accountability (Rancourt 2010, 3).

If universities are social goods, then academic freedom has “...the potential to correct inequities and democratize knowledge and power” (Jeppeson and Hazar 2012, 94). However, this potential conflicts directly with the tenets of neoliberalism which value negative freedoms, individual entrepreneurship, and institutional frameworks committed to private property, free trade, and free markets (Jeppesen and Hazar 2012, 93). Put differently, there is a logic of domination that underscores neoliberalism, a logic that

intensifies systems of oppression as opposed to disrupting them (Jeppesen and Hazar 2012, 94).

Jeppesen and Hazar identify two dominant ways in which neoliberalism has encroached on academic freedom and affected the university. First, neoliberalization of the university has a corrosive impact on governance structures and values (Jeppeson and Hazar 2012, 04). For example, Brennan et al. (2004) describe how academic work has changed. Corporatization has meant that academic work is subject to extremely fierce competition, a greater emphasis on managerialism, as well as shifts in administrative, bureaucratic and corporate forms of accountability (Brennan et al. 2004, 16). With this upwards drift of authority, Stewart elaborates that education is increasingly treated as a consumer good, and there is a deepening emphasis on market-based rationality, with related notions of consumer satisfaction, public and corporate relations, short-term priorities and discourses of fiscal constraint (Stewart 2010, 49). For example, in 2000, the *Excalibur* reports on the 'Investing in Students Task Force', created to investigate the administrative procedures at Ontario post-secondary institutions to ensure money from the provincial government is not wasted (Stocci 2000, 4). This then is the second main consequence of neoliberalization; the neoliberalization of the culture and ideology of research and pedagogy (Jeppeson and Hazar 2012, 94).

In the *Excalibur*, the erosion of academic freedom, as well as freedom of expression on campus, is of concern. Kaman writes, for example, that tenure itself is not simply protecting academics that are fired or reprimanded for engaging in research that departs from the norm or for speaking out on a particular issue, but tenure is "...also protection against the market" (1988, 11). In one opinion column, Ben-Zvi describes the ideal

university as an “unbiased institution for enlightenment and higher learning” but one threatened by a university administration that has “sold out”; the focus on selling more parking spots, advertising in washrooms, and securing exclusivity deals with corporations is indicative of the corporatization of the university and the commodification of students (2000, 9). And, in one article discussing the strengthening ties between universities and tobacco companies, corporate involvement is characterized as striking the heart of the university, threatening the “integrity of our research and teaching” (Ottawa Bureau 1996, 5).

Quelling dissent

Over the study period, corporatization is also characterized as threatening dissident activity at the university, or the university as a dissident space. That dissent itself is valued speaks to a particular vision of the learning that occurs on university campuses. Citing Political Science professor George Comninel, Michael Sitayeb writes that “Learning is not confined to classrooms, it can spontaneously show itself in discussions and debates in public spaces like Vari Hall” (2005, 1).¹⁴⁰ For example, in a 2005 editorial, the *Excalibur* writes that the university administration’s “...hostility to dissent on campus, combined with its friendliness to corporate donors, has lately been the focus of increased public scrutiny...” (2005, 2). Earlier in the study period, one letter to the editor identifies a connection between governance at the university, the quelling of dissent and corporatization (Thompson 1998, 12).

¹⁴⁰ This however speaks to a longer lineage of the dissident space and potential of Canadian universities. Horn (1999) explains, for example, that in the 19th century German universities, whose influence on North American higher education was significant, were premised on the *Lehrfreiheit*, the professor’s freedom to teach, and *Lernfreiheit*, the student’s freedom to learn (Horn 1999, 1). Horn argues that *Lehrfreiheit* helped give form and content to the North American idea of academic freedom, but that *Lernfreiheit* had no noticeable impact (Horn 1999, 18).

In one respect, there is a sense from the administration of York University that corporatization *is* threatening and should be resisted. For example, with respect to a one million dollar donation from Imperial Oil to the university, Associate Vice President of Strategic Academic Initiative at York, Stan Shapson, specifies that the donation came with no strings attached, and that “...the university did not have to compromise their goals to meet Imperial Oil’s approval” (Chezzi 1999, 1). And, in 1993, in response to an *Excalibur* article that uncovered and criticized links between the American military and research performed at York, then-York President, Susan Mann, responded by sending a memo to the York community defending the university’s choices, describing an “anti-research sentiment” at the newspaper (Prutschi 1993, 3).¹⁴¹

These assurances by the university administration would not be enough for members of the York community. Writing regarding a letter of reprimand issued by then-President Lorna Marsden to members of the York Action Coalition (YAC), a group that interrupted a Board of Governor’s meeting to protest rising tuition, Jason Thompson suggests that these forms of punishment reveal the administration’s commitment to “undemocratic corporate rule”, a model of governance that is antithetical to a public institution (1998, 12). In keeping with the observations regarding “undemocratic corporate rule”, eight students, including three student leaders, would receive disciplinary warnings, and the university administration would publish an open letter in the *Excalibur* warning the entire university community against protesting in a like fashion (“Faculty sympathetic to students, Letter to

¹⁴¹ Mann would later be compelled to apologize to the paper in a letter stating, “I wish to make it clear that it was not my intention to suggestion that comments appearing in *Excalibur* concerning certain scholarly research were deliberately and knowingly false, or that they were prompted by an improper motive” (Prutschi, 1993, 3).

Editor” 1998, 8). In addition, the board’s subsequent meeting was held via teleconference as a “dry run for future meetings” until the threat of protest died down (Editorial 1998, 10). President Marsden took care to note that this was simply an exceptional response that did not deviate from the policy of open board meetings (Editorial 1998, 10). A letter written by a number of faculty members in support of the students who received disciplinary warnings identified the actions of the administration as indicative of “...a disturbing abuse of power, aimed at silencing the elected representatives of students and campus activists.” (“Faculty sympathetic to students, Letter to Editor” 1998, 8). The faculty would go on to suggest that the university administration was attempting to “terminate critical analysis of the Administration and Board of Governors”, and that the university marginalized student concerns by depoliticizing their “anger and frustration” as “rude and childish” (“Faculty sympathetic to students, Letter to Editor” 1998, 8). There is a disjuncture noted here:

On the one hand, York encourages critical thinking through its curriculum; on the other, York silences the very ideas, public discourse and application of knowledge it teaches. President Marsden’s actions are unacceptable. They challenge the academic integrity of York and the fundamental principles of democracy. The silencing of and the attack on students is taking place because it diverts attention away from the fundamental problems with the governance of York University: that the corporate and private interests on the Board of Governors are being served over the interests of the public. (“Faculty sympathetic to students, Letter to Editor” 1998, 8).

Threat to the dissident institution: Militarization

The linking with industrial partners for industrial research with high returns is deeply connected to an increasing militarization of York University campus, a process apparent over the study period, but most visible in the pages of the *Excalibur* in the early 1990s in three predominant ways. First, tension is apparent over the ways in which the military itself encroaches on campus space. Second, there is contestation over the ways in

which resources of the institution are regulated and disciplined through links to the apparatus of war and imperial conquest, and third, there appears to be an increasing militarization with respect to the *de facto* regulation and disciplining of York University students.

First, with respect to contestation over campus space, in 1991, Brent Poland reports on minutes from the Ontario Federation of Students (OFS) general meeting condemning “Western military intervention in the Persian Gulf Crisis” and also opposing “...the National Defense Department recruitment on post-secondary institutional campuses” (Brent Poland, *Excalibur*, March 6, 1991). In 2000, the *Excalibur* would report on University of British Columbia students protesting the Canadian Security Intelligence Service (CSIS) recruiting on university campuses (2000, 37).

In 2005, students would protest the presence of Canadian military recruiting officers on campus during an on-campus career fair. Sadowsky reported that York’s Grassroots Anti-Imperialist Network (GRAIN) and the YFS opposed the use of York’s campus as a space to strengthen the Canadian military’s participation in “illegal campaigns of aggression” (Sadowski 2005, 2). Ahmed Habib, VP of Equity of the YFS stated that if the Canadian Department of Defence wanted to use student space for recruitment, they would have to “live up to particular standards of human rights and equity” (Sadowski 2005, 2).

Some would decry the protests as “appalling”, defending the right of the Canadian Armed Forces to “recruit at our free and open university” (Zatzman 2005, 8). Noah Zatzman, a frequent author of letters to the editor in support of the state of Israel, condemned the protesters, characterizing it as “...an abomination that my student representatives would act in such a despicable and crude manner toward the men and women who put their lives on

the line to protect our rights and freedoms, and who serve with undisputed honour and valour in protecting our country from oppression and terror.” (Zatzman 2005, 8). Gwenda Lewis would also write in her letter to the editor that the YFS had overstepped its bounds in taking “...political sides on issues outside of university education” (Gwenda Lewis, *Excalibur*, October 19, 2005). By forcing the Canadian Armed Forces off campus, the YFS had themselves infringed on freedom of speech (Lewis 2005, 8).

Two years later, Aaron Hall reported on protests at Fanshaw College career fair where the Social Justice Club had critiqued the presence of the Canadian Armed Forces (2007, 5). In 2008, Sheridan reported on a second peaceful protest against the Canadian Armed Forces recruiting on Fanshaw College (2008, 4). At York, the York Social Justice Network would protest on-campus army recruitment in 2009, with a coalition of students speaking out against military recruitment posters on campus: “Military off campus; Education not occupation” (McLean 2009, 1).

Second, over the study period, there is broadly consistent contestation over the ways in which resources of the institution are regulated through militarization. By the time of the first Gulf War, concerns are vocalized in the school paper over the “complicity of university and college administrations in fueling the apparatus of war by accepting military research and/or investments on campus” (Editorial 1991, 2). Here, the university as a “non-partisan centre for the peaceful exchange of ideas” is characterized as threatened by the rise of scientific research programs with strong financial links to the military (Editorial 1991, 2). Two years later, Pat Micelli reports that the York Senate had set up terms to protect itself if the university was to link with the International Space University (ISU) (1993, 5).

Specifically, the terms were reported as ensuring that research conducted did not have specific military or defence objectives (1993, 5).

As Calvert and Kuehn explain (1993), the International Space University had existed since 1987 (121). The ISU was supported by NASA and a number of American military contractors and with the support of the provincial New Democratic Party (NDP) government, York had placed a bid to establish the ISU permanently on its campus (Calvert and Kuehn 1993, 121). Despite being promoted as conducting non-military space research, the majority of the donations the ISU had received between 1987 and 1990 were from major US defence contractors (Calvert and Kuehn 1993, 121). In the Canadian context, the private sector support for York's bid was from major military contractors (Calvert and Kuehn 1993, 121). Critics were also concerned that private corporations would be granted special research rights at ISU that the ISU would be a private university with special access to York as a public institution, that tuition would be \$25,000/year and that ISU faculty would not be subject to normal hiring and immigration requirements (Calvert and Kuehn 1993, 121; Prutschi 1993, 1).¹⁴²

At the same time as these reports on the ISU, the *Excalibur* also reported that York University was one of the top receivers of military money among Canadian universities and colleges, collecting around \$4.1 million between 1979 and 1991, a trend linked directly to decreases in government funding (Eddie 1993, 5). Also that winter, Nayman and Prutschi report that research conducted at York University's Institute for Space and Terrestrial Science" was used by a Montreal-based, private corporation which provided flights

¹⁴² York's bid for the ISU would ultimately fail.

simulators to the United States Air Force for training during the Persian Gulf War (Nayman 1993, 1; Prutschi 1993, 3). The large question raised by the militarization of campus is who is made increasingly safe by this encroachment?

Third, over the study period, there was concern expressed by York community members about increasing militarization with respect to the *de facto* regulation and disciplining of York University students. For example, in November 1990, Jessica Goldman and Brent Poland reported that York University, like the University of Ottawa and Waterloo University, would now grant campus security officers constable status, allowing them to use handcuffs and billy clubs for night patrol (1990, 1). Yet, as pointed out in a letter to the editor, the decision to introduce handcuffs lacked clarity around screening, training, how this made the community safer as well as concerns about harassment receiving little to no attention in the York community (Fang 1991, 5).

While the threat to the institution posed by corporatization significantly predates the events of September 11 2001, the almost twin trend of militarization does seem to deepen after the terrorist attacks of September 11 with consequences for student activism and faculty academic freedom. Indeed in one *Excalibur* article in November 2001, David Noble is cited as arguing that after the terrorist attacks of 9/11, academic freedom has been threatened by the ensuing security discourse, with government agencies having unprecedented capacities to “monitor, access and subpoena university course content and communication” (Macdonald 2001, 3). This capacity for surveillance is directly tied to corporatization as the trend towards online courses allows for more administrative “scrutiny, regimentation, discipline and even censorship” (Macdonald 2001, 3).

Threat to the dissident institution: The Israel/Palestine Exception

The point to take away here is that for the York community, the impact of corporatization/neoliberalization and militarization on the university is worthy of contestation. It is seen as legitimately political, meriting political debate, and in many respects, characterized as a threat to the integrity of the university as a liberal or dissident institution. There is political space here for dissident York citizens to engage.

A few points are worth highlighting here. First, the corporatization and militarization of the university are historical and ongoing processes which far-predate 9/11. Moreover, mobilization against these processes also predates 9/11. Second, if one can suggest that universities are sites of critical thinking or spaces in public service to the common good, these twin processes pose a definitive threat to the university. Third, these long-term trends or processes have governance consequences for the university, which in turn are directly tied to the ways in which the campus community is regulated. As Beach (2011) writes, a move towards funding tied to “performance”-based indicators as well as a reliance on external corporate funding for research has led to a number of changes, including the rise of proprietary research, an emphasis on public-private research partnerships, and increased demands for faculty productivity. These changes are all deeply corrosive for democratic and collegial forms of governance. For example, as noted in one letter to the editor, Jason Thompson critiques the top-down, corporate-member dominated model of governance of the York Board of Governors as troubling for a public institution (1998, 12).

A fourth point to note, as foregrounded in a letter to the editor by Blair Dowell, a member of an activist student group – the York Action Coalition (YAC) - fighting tuition increases, the underfunding of universities and the selective refunding of those most market compatible areas of the institution has a disproportionate impact on students, as well as on

particular students (1998, 13; Editorial 1998, 4). In addition, the twin trends of corporatization and neoliberalization have a very specific impact on campus politics with respect to Israel/Palestine and the regulation of Palestine solidarity activists as dissident citizens or threats. As Nadeau and Sears (2010) note, with the neoliberalization of the university, universities have become increasingly dependent on corporate linkages and private donors (23). In this sense, universities become more susceptible to public criticism (Cole 2005, 5), a phenomenon that is captured to some degree in the *Excalibur*. Strategically, the importance of this broadening space of influence is not lost on Israel advocacy organizations.

On the ground: Corporatization and militarization and the politics of Israel/Palestine at York

In an article entitled, “The Israel Advocacy Push to ‘Reclaim York University: Putting Current Events in Context’”, Dan Freeman-Maloy provides a meticulous chronology of the long history of formal and public links between Israeli state officials, Israel advocacy groups and York University (2009). Freeman-Maloy’s chronology demonstrates the ways in which these links have deepened as universities have reoriented their focus towards private fundraising, a trend supported by the articles in the *Excalibur*. As Freeman-Maloy writes, the chronology is not one of “Jewish influence”, but is instead a detailing of the “...influence of distinct corporate-dominated institutions linked to the United States, loyal to Israel and vigorously opposed to anti-imperialist challenges to Canadian foreign policy.” (Freeman-Maloy 2007, 25). In this way, York University can undeniably be described as an important site of well-resourced and organized Canadian Zionist activity (Freeman-Maloy 2007, 25).

The relationship between York University and the state of Israel would take shape early in the university’s institutional life. In the 1970s, then-president of the university, Ian

Macdonald, appeared several times with then-Israeli foreign minister, Abba Eban, who visited Canada in 1974 and 1979 (Freeman-Maloy 2009). The visits would bookend a 1977 exchange agreement between York University and Hebrew University, an agreement that has been broadened and continues today.¹⁴³ In the 1980s, in the face of the resistance sparked by the Israeli invasion of Lebanon in 1982 and the ongoing and violent repression of the First Intifada (Freeman-Maloy 2009), the university would continue to develop ties with the Israeli state and maintain the university as a hospitable site for Zionist groups. During this time period, the JDL actively recruited from the York study body and disrupted Palestine solidarity activities on campus (Freeman-Maloy 2007, 25; Sussman 1982, 4).

Then York President Harry Arthurs continued to maintain associations with the Israeli state, despite rare expressions of official Canadian criticism of the violence against Palestinians (Freeman-Maloy 2007, 25). For example, in March 1988, in a speech at the annual dinner of the Canada-Israel Committee, then-Canadian external affairs minister Joe Clark condemned the Israeli state for its human rights violations against Palestinians:

Human rights violations such as we have witnessed in the West Bank and Gaza, in these past agonizing weeks, are totally unacceptable, and in many cases are illegal under international law. The use of live ammunition to restore civilian order, the withholding of food supplies to control and collectively penalize civilian populations, the use of tear gas to intimidate families in their homes, of beatings to maim so as to neutralize youngsters and pre-empt further demonstrations, have all been witnessed these past months. UN officials...report that these actions almost certainly are deliberate instruments of the so-called 'iron-fist' policy, designed to re-establish control by force and by fear (Freeman-Maloy 2009).

¹⁴³ See <http://yfile.news.yorku.ca/2004/05/11/york-partnership-with-hebrew-university-schools-expands/>. Accessed December 5, 2015.

Despite this, and despite his own active institutional resistance to apartheid South Africa, President Arthurs invited Israel's President Chaim Herzog to campus to present him with an honorary degree (1989, 2; Merrick 1989, 7; Freeman-Maloy 2007, 25).

The pattern would continue in 1994, with York president Susan Mann joining a delegation to Israel to help broaden Canadian-Israel research ties (Freeman-Maloy 2007, 25). Again, early in 2005, York president Lorna Marsden would accompany other top York administrators on a Canadian Jewish Congress (CJC)-funded trip to Israel (Noble 2005, 30). The Canadian Council for Israel and Jewish Advocacy (CIJA) would partially fund another visit to Israel by six university presidents in 2008, followed by delegations including in 2012 and 2013. In 2013, the Association of Universities and Colleges in Canada (AUCC), representing 97 Canadian public and private not-for-profit universities signed a five-year memorandum of understanding with the Association of University Heads (AUH) of Israel, representing Israel's seven universities (*Queen's Gazette* 2013). Opposed by Faculty for Palestine on the basis that the framework agreement "marks a dangerous shift toward the institutionalization and normalization of Canadian university complicity in Israeli occupation and apartheid" (Faculty for Palestine 2014), the agreement was praised by Israel advocacy organizations for its commitment to "increased collaboration" and lauded as "an important indicator of just how deep the relationship [between Canadian and Israeli universities] is becoming" (Stern 2013).

The entrenchment of these kinds of ties between York University, the state of Israel, and Israel advocacy organizations would be subject to extensive protests in 2006, with GRAIN, Solidarity for Palestinian Human Rights @ York (SPHR) and the Arab Students Collective (ARC) holding a demonstration called "Israeli Apartheid and York University" and

demanding the resignation of York President Lorna Marsden and York foundation volunteer, Julia Koschitsky (Sadowski 2006, 1). The students objected to Koschitsky's role in organizing a conference that brought Israeli military leader and politician Ariel Sharon to Canada, and wanted the university to issue a public apology to David Noble as well as to the students penalized in the January 20, 2005 Vari Hall protest (Sadowski 2006, 1). Ahmed Habib, the VP Equity for the YFS explained that, "Students [were] demanding dignity and demanding primarily that the university administration does not support Israeli apartheid in their name, and that the university administration be [held] accountable for the complicity and the violation of human rights and the oppression of social justice" (Sadowski 2006, 1).

This close link between York University and Israel advocacy organizations is not simply a relationship that can be attributed to a strategic calculation on the part of the university administration, nor is it a relationship uniquely attributed to the events of 9/11. Starting in the early 2000s, Israel advocacy organizations extensively reorganized themselves and strategically mobilized to focus their lobbying efforts on university campuses (Noble 2005; Borschel-Dan 2014; Jaret 2015). In a widely reported meeting between Natan Sharansky and then Prime Minister of Israel, Ariel Sharon, Sharansky described American college campuses as "a battlefield of the Jewish People" (Jaret 2015). Mearsheimer and Walt (2006) note that in the American context, Israel advocates stressed the importance of 'reclaiming' university campuses given a wave of strong critique of Israel emerging after the collapse of the Oslo peace process, the election of Ariel Sharon as Prime Minister of Israel in February 2001, and the reoccupation of the West Bank in the spring of 2002 (47).

In the Canadian context, Oakland Ross identified four main catalysts for the reorganization of Canadian Israel advocacy organizations. Ross reported that in part a reaction to the launching of the second Palestinian intifada in 2000, the 2001 World Conference Against Racism in Durban, South Africa, a perceived “...rise in anti-Semitism worldwide...a feeling Canadians [were] becoming less sympathetic to Israel...” (Ross 2003, A1), as well as the student protests at Concordia University in September 2002 (Saifer 2009, 80), a group of fifteen prominent pro-Israel Canadians formed the “Israel Emergency Cabinet” in 2002 (Ross 2003, A1).¹⁴⁴ A new board of 18-22 individuals, the Canadian Council for Israel and Jewish Advocacy (CIJA), would form out of the Israel Emergency Cabinet (O’Connor 2009, 45). CIJA became the principle decision-making and coordinating body overseeing a number of Jewish-Canadian organizations, including the United Israel Appeals Federation of Canada (UIAFC) (O’Connor 2009, 45), the Canada-Israel Committee, the Canadian Jewish Congress/United Jewish Appeal and National Jewish Campus Life (Saifer 2009).

While CIJA engaged in political lobbying, the early focus of CIJA, through its National Committee for Jewish Campus Life and the University Outreach Committee was on countering the growing critique of Israeli policies on university campuses (O’Connor 2009,

¹⁴⁴ Some prominent members of the cabinet included: Gerald Schwartz (CEO Onex corp), Larry Tanenbaum (Chairman, Maple Leaf Sports and Entertainment Ltd), Israel Asper (Executive Chairman, CanWest Global Communications Corp), Heather Reisman (CEO Indigo Books and Music Inc), and Senator Leo Kolber. Ross cites then executive Vice-President of the United Israel Appeal Federations Canada, Maxyne Finkelstein, who described a “deep anxiety among Canadian Jews” leading to a “crisis in our international community and in our Canadian community” (Ross 2003, A1). Ross writes that this growing crisis began in 2000 with the launching of the second intifada, followed by the United Nations World Conference Against Racism, at which Israel was “starkly isolated”, the protests at Concordia University against the visit of Israeli Prime Minister Benjamin Netanyahu (2003, A1).

45).¹⁴⁵ Eight professional Israel advocacy specialists were hired by the National Committee for Jewish Campus Life, and stationed across Canadian post-secondary institutions (Saifer, 2009, 80). The specialists targeted students and were focused on flooding campuses with pro-Israel training, conferences, and resources for travel (Saifer 2009, 80). As its name suggests, the University Outreach Committee focused on outreach to those outside of the student population, for example administration, faculty and donors (Saifer 2009, 80).

In 2003-2004, the UIAFC allocated \$1 million, over and above its \$500,000 budget, to fund Israel advocacy initiatives on Canadian university campuses (Freeman-Maloy 2007, 25).¹⁴⁶ In an *Excalibur* profile of the relationship between York and the state of Israel, Freeman-Maloy notes that 500 York students had been sent on fully subsidized trips to Israel in the summer of 2003 (Freeman-Maloy, 2007, 25) By 2004, the National Committee for Jewish Campus Life had also formed the Canadian Federation of Jewish Students to serve as an umbrella organization that nationally coordinated strategy for campus Hillels and other allied groups (Saifer 2009, 80).

¹⁴⁵ As David Noble writes, after its first year of operation, CIJA identified a number of success stories such as “education” events intended to promote a pro-Israel stance, “missions” to Israel for Canadian politicians and other leaders or “opinion makers”, and meetings between leaders at all levels of government and representatives from Israel (Noble 2005, 30). After CIJA’S formation and its active lobbying of then-Justice Minister, Irwin Cotler, John Ibbitson of the *Globe and Mail* would note that Canada’s posture towards Israel under then-Prime Minister Paul Martin seemed to shifting as Canada began to side with the United States on several Israel-related UN resolutions (Noble 2005, 30).

¹⁴⁶ Lungen reports that in their first official year, CIJA determined that education would be the focus and began targeting Canadian political and labour leaders, opinion makers, and non-governmental organizations. In its first year, CIJA funded a number of “missions” to Israel, targeting corporate leaders, and newspaper editorial boards. In addition, more than \$200,000 was spent on subsidizing visits to Israel for campus leaders. Prior to the formation of CIJA, Israel advocacy organizations had subsisted on a combined allocation of \$5.3 million, but after the formation of CIJA, the budget grew to \$10.5 million. CIJA also funded the hiring of seven “advocacy experts” in seven Canadian cities whose purpose is to “assist local student groups and address anti-Israel agitation on campus”. Jewish Agency emissaries were also recruited to provide students with a range of resources, and CIJA identified and coordinated a series of professors at various institutions to agree to act as advocates in “confronting anti-Israel colleagues”. CIJA also assisted students at York University to unseat a “pro-Palestinian student government”. See Lungen 2005, 21.

The *Excalibur* confirms the active and ongoing presence of Israel advocacy organizations on York University campus. For example, over the 30-year study period, at least 119 separate advertisements for study abroad and travel to Israel trips appear in the *Excalibur*. The advertisements highlight a range of York University programmes, scholarships and exchanges in Israel, as well as a range of scholarship, travel and training opportunities funded by Israel advocacy or Zionist organizations, including: the Jerusalem Fellowships; the United Jewish Appeal Campus Campaign; Otzma a fellowship program of the Israel Youth Program Centre of the Canadian Zionist Federation, Youth and Hechalutz Department; Birthright Israel tours through the Canada Israel Experience Centre, and other free or partially funded tours of Israel. While the frequency of the ads would dramatically decline in 1999, with only 10 advertisements appearing between 1999 and 2010, Israel advocacy would remain a strong presence in the paper with extensive attention paid to the branding of Israel, allegations of anti-Semitism in well-coordinated shaming campaigns of Palestine solidarity activists, as well as peace and dialogue-based initiatives, forms of regulation to which I will return later.

The historical and deepening relationship between York University and Israeli institutions would also be signalled through the number of visiting speakers from Israel advocacy organizations, Israeli universities, including Hebrew University, Bar-Ilan University, Hebrew University, and Ben-Gurion University, as well as Israeli state officials, such as the Israeli Consul General, Israeli Knesset members, and former Israeli-presidents. In addition, institutional links between York and Israeli institutions are also highlighted in the *Excalibur*. In 1998, Osgoode Hall graduate J. Richard Shiff donated \$900,000 to establish the J. Richard Shiff Chair for the Study of Canadian Jewry, linked directly to Bar-Ilan

University's Israel and Golda Koschitzky Department of Jewish History and Contemporary Jewry (*Excalibur* 1998, 3). That same year, the university would highlight a \$2 million donation from the Canadian Friends of Hebrew University (Freeman-Maloy 2007, 25). The relationship between Israel advocacy organizations and York University would be traced most clearly in 2002, when the York University Foundation was established as the university's main fundraising apparatus (Freeman-Maloy 2009). Paul Marcus, the former director of the B'nai-Brith Institute for International Affairs, as well as other high-profile Israel advocates such as Julia Koschitzky, Honey Sherman and Howard Sokolowski, had a notable presence on the foundation's board of directors (Freeman-Maloy 2007, 25). It would be these linkages that David Noble would highlight in his infamous "The Tail That Wags The Dog" flyer critiquing Israel's power at York.

There are two significant points to take away from this abbreviated detailing of the connection between York University, the state of Israel and Israel advocacy organizations. First, as the CAUT explains in its 2008 report investigating academic freedom and governance at York in the wake of the repression of the January 2005 Vari Hall protests, York University is not exceptional in that like other universities, York is subject to "academic capitalism", a logic driven to restructure the university as an "entrepreneurial institution" where knowledge is commodified (CAUT 2008, 19). The CAUT notes that particularly in the early to mid-2000s, in its drive to obtain a Faculty of Medicine and/or Health Sciences, the university embarked on a public relations campaign which "...reflected the desire to bury York's reputation as a politicized and radical campus" (CAUT 2008, 19). As with other universities, in the search for funds from private sources, York "[worked] hard to create the perception of their university as a place that is stable and, while liberal in orientation, well

under control” (CAUT 2008, 19). The CAUT goes on to write that the corporatization of the academy sets up an inevitable conflict between academic freedom/freedom of speech/dissent and the processes and regulations of the corporate campus (CAUT 2008, 19).

In this sense, the processes of corporatization and militarization *are* deeply implicated in how the politics of Israel/Palestine are articulated and circumscribed on York University campus, particularly given the ways in which Israel advocacy organizations have strategized around the university. Moreover, given the concerns highlighted earlier that York community members have expressed regarding the impact of corporatization and militarization on the university, one would expect a similar pattern of discourse and activity on the question of Israel/Palestine and the role of Israel advocacy organizations. This relates to the second key point evident in the *Excalibur*. When it comes to Israel/Palestine, corporatization and militarization are more often defended or erased than in other contexts. Here, the characterization of the university as a liberal or dissident space is fluid. In this way, the contestation of Israel/Palestine continues to be treated as an exception, in ways that intersect with the securitization of the university itself.

The remainder of this section focuses on three key controversial moments in the post-9/11 period: 1) a visit to York campus by Campus Watch founder Daniel Pipes; 2) government and University administration intervention with the 2009 York conference, “Israel/Palestine: Mapping Models of Statehood and Paths to Peace” conference [Mapping Conference], and; 3) the ongoing contestation over political protest in one central York University building, the Vari Hall Rotunda. In each of these controversies, academic freedom and freedom of expression, central values of the university, are threatened through securitization of the university. Here, academic freedom itself is decontextualized and

depoliticized, as is its regulation. In the case of Pipes' visit, this is done through a radical inversion of political power where Palestine solidarity activists are cast as threatening to Israel advocates, the institution and academic freedom. In the case of the Mapping Conference, the impact of the Israel advocacy lobby is depoliticized and normalized through a security discourse. Finally, in the case of the regulation of protests in Vari Hall, the repression is depoliticized through appeal to seemingly neutral rules governing the use of campus space. While the discourses and modes of regulation employed in these controversies are heightened, they are not entirely new, suggesting that if a liberal value such as freedom of expression is used to measure the citizenship trajectory, the *Excalibur* shows neither a linear nor coherent citizenship story. Instead, the text demonstrates the malleability of liberal principles such as academic freedom, raising questions as to their use as reliable indicators of the dissident space available to or claimed by groups.

Decontextualizing and Depoliticizing Academic Freedom

As articulated earlier, the *Excalibur* shows how as early as 1988, members of the York community expressed concern that the core commitments of the university were threatened by corporatization and militarization. Specifically, concerns were expressed over the integrity of academic freedom, the independence of the institution, and the space available on campus for dissident political activity. In the post-9/11 context, conflicts over academic freedom and freedom of speech on York University campus were intense, and in many ways, York community members were subject to unprecedented modes of repression. In the broader Canadian context, it would be in the post-9/11 period where exceedingly controversial decisions would be made, such as attempts to ban the phrase "Israeli apartheid" at McMaster University in 2008, the banning of IAW posters on four different

Ontario University campuses in 2009, motions condemning IAW in parliament and provincial legislatures, as well as well orchestrated attacks in the media against students and faculty fighting for the human rights of Palestinians.

In examining discourse in the *Excalibur* regarding the Pipes' talk, the Mapping Conference and the protests in Vari Hall, the concerns of Palestine solidarity activists with respect to academic freedom, institutional independence and space for dissent are in many ways consistent with the larger concerns expressed by York community members in *other* political contexts regarding the corporatization and militarization of the university. In contrast, however, to other political contexts, these concerns are less widespread, and the trends of corporatization and militarization are not broadly noted in commentaries on the campus politics surrounding Israel/Palestine. Moreover, the text demonstrates that the strategies of decontextualization and depoliticization accompanying these discourses have a longer lineage in that they predate 9/11. In short, when it comes to issues other than Israel/Palestine, the processes of corporatization/neoliberalization and militarization are erased through strategic inversions of power, the depoliticization of the Israel lobby, and through an appeal to supposedly 'neutral' rules.

Radical Inversion of Power: Daniel Pipes, the Language of Multicultural Inclusion and Political Correctness

In 2003, Daniel Pipes, founder of the Middle East Forum (MEF), a conservative American think tank was invited by the JSF to speak at York University. Pipes also founded Campus Watch, a website which describes itself as a project that "reviews and critiques Middle East studies in North America with an aim of improving them".¹⁴⁷ While the website

¹⁴⁷ See <http://www.campus-watch.org/>. Accessed March 18, 2016.

describes itself as committed to freedom of speech, Campus Watch has been critiqued as a profoundly Orientalist and racist project that targets, blacklists and surveils academics (Schueller 2007, 41) with the York University Faculty Association (YUFA) describing Campus Watch as a “racially motivated campaign of hate” (Libman 2003, 1).¹⁴⁸ For example, in September 2002, Campus Watch published “dossiers” of eight prominent Middle East Studies professors who, the website claimed, showed “bias” given their critiques of American foreign policy and/or the Israeli occupation (Schueller 2007, 41). The professors named on the site were subsequently inundated with negative and threatening emails (Lewin 2002).

Pipes’ talk was originally cosponsored by the York Centre for International and Strategic Studies (YCISS) but upon learning of Pipes’ connection to Campus Watch, the YCISS withdrew its support citing concerns over Campus Watch’s repression of academic freedom (Libman 2003, 1). In addition, because of extensive protests against Pipes’ visit, as well as security concerns, the JSF was asked to relocate his talk to a more secure location (Libman 2003, 1). York President Lorna Marsden’s decision to allow Pipes to speak at another on-campus location followed after the JSF asked the Canadian Jewish Congress to lobby the university to relocate and not cancel the event (Brean 2003, A04).¹⁴⁹ Despite assurances to the contrary, the Coalition for Academic Freedom alleged that the event was shut down because of conflicting ideologies and not security reasons (Libman 2003, 1).

Braz reported that on the evening of the event, security was high, with approximately 10 mounted police watching the crowd of 100 protesters (Perkel 2003; Braz 2003, 3). The

¹⁴⁸ Campus Watch targets academics who criticize Israel’s treatment of Palestinians as well as the United States’ pro-Israel policies, then subjecting those academics to harassment and threats.

¹⁴⁹ In a *Globe and Mail* editorial on the issue, the paper described Pipes as an “academic with strong pro-Israel views”, remarking that his lecture was almost cancelled “...because of an atmosphere of intimidation created at Montreal’s Concordia University in September.” The editorial would go on to support the university’s decision to allow Pipes to speak, writing that the administration “refused to be intimidated.” (Editorial s2003).

VP External for the YFS would refer to the 24 hour lockdown of the building, metal detectors for the audience, identification checks, and warnings to audience members that they would be forcibly removed if they disrupted the talk, as “excessive” (Brea 2003, A04; Braz 2003, 3). Commending the decision of President Marsden, Bernie Farber, executive director of the Canadian Jewish Congress stated that York had stood up for free speech and had they not, it would have set a “...very, very unacceptable precedent to cancel it because of students who didn’t like Daniel Pipes or what he had to say” (Alphonso 2003, A2).

In his own letter to the *National Post* regarding his experience at York, Pipes claims the status of victim, portrays himself as under siege, and characterizes cautions by the Hate Crimes Unit of the Toronto Police Service excessive: “No other institution – the media, the churches, the Parliament, the corporation – would treat a dissenting view in like fashion. And does it really need to be pointed out that the university is supposed to be a place for inquiry and debate. (Pipes 2003, A20). Pipes goes on to say that the significance of this moment is that the repression of free speech does not come from “the extreme right, radical Christians, and pro-Israel activists” but “invariably and uniquely...from the extreme left, Islamists, and anti-Israeli activists” (Pipes 2003, A20). Engaging in profoundly racialized language, Pipes also described those protesting his speech as “intolerant academics” or “barbarians who would close down civilized discourse” (Perkel 2003).

Schueller (2007) writes that in the post-9/11 context, this attempt to regulate post-colonialist Middle East studies scholars, or scholars critiquing occupation and imperialism, is distinctive in two key ways. First, this attack on critical scholarship involves an appropriation of the language of multiculturalism, and second, this attack on scholarship includes not simply a focus on the activities of scholars, but on “paradigms of knowledge

production” (Schueller 2007, 42). Of significance here is Schueller’s description of multicultural imperialism as a form of regulation. Here, “radical, race-based multiculturalism, and critiques of imperialism...are deemed national security threats” (Schueller 2007, 50). Multicultural imperialism trades on the “delegitimation of complex, critical thinking and the equation of dissent with terrorism” (Schueller 2007, 55) but simultaneously on the contention that since the 1960s, undergraduate classrooms have been politicized by a left-wing influence of “Marxists, socialists, post-modernists and other intellectual radicals” (Schueller 2007, 55 – citing David Horowitz). In the name of challenging radical extremism and bias, the right-wing agenda is characterized as bringing “balance, diversity, and tolerance” into academia (Schueller 2007, 51).

This perspective is echoed as Jonas writes an article about a two-day conference on the ‘new anti-Semitism’ held at the University of Toronto’s Munk Centre for International Studies. Jonas decries the repression, oppression and racism of Palestine solidarity activists who argue “no free speech for racists” in the name of silencing those they “don’t want people to hear” (Jonas 2003, A15). Jonas goes on to state that universities have

...always been fertile grounds for intolerance. The twin evils of the 20th century, Nazism and communism, incubated at universities. Young people are tailor-made for proto-Fascism: They’re energetic, self-righteous, idealistic, naïve and impressionable....If many students are receptive to extremism, some faculty are even more so. Ambition, pedantry, hauteur – common intellectual vices, along with resentment of, and contempt for, contrary views – all serve to turn institutions of inquiry into fortresses of repression...” (Jonas 2003, A15).¹⁵⁰

¹⁵⁰ At the same time that there were calls to shut down Israeli Apartheid Week, Daniel Pipes was invited to and visited the University of Toronto in March 2005, with academics and students saying that “hate, prejudice and fear-mongering” do not have a place on campus. More than 80 professors and graduate students wrote an open letter condemning Pipes “...long record of xenophobic, racist and sexist [speeches] that goes back to 1990....Genuine academic debate requires an open and free exchange of ideas in an atmosphere of mutual respect and tolerance. We...are committed to academic freedom and we affirm Pipes’ right to speak at our university....However, we strongly believe that hate, prejudice, and fear-mongering have no place on this campus.” See Alphonso 2005, A18.

This kind of analysis would be replicated in responses to the decision of Concordia University to reject Concordia Hillel's attempt to bring former Prime Minister of Israel, Ehud Barak, to speak in 2004. The director of security at Concordia said that because they could not guarantee the safety of all members of the Concordia community, the event would have to be held off campus (Weatherall 2004, 5).¹⁵¹ In a letter to the editor, Daniel Held describes Palestine solidarity activists are against "free intellectual inquiry" and are bringing "a new form of terrorism to campus" with "brutal aggression, scare tactics and threats of continued violence" (Held 2004, 11).

This disjuncture where Pipes' can simultaneously target, surveil and attack critical scholars while at the same time claim that he is being repressed or oppressed speaks to the "contradictory catchwords" of security, surveillance, diversity and balance that Schueller describes as illustrative of the Right's attack on academia in the post-9/11 period (2007, 41). There is power in this deployment of the language of multiculturalism in that the state, or those with access to the power of the state "...[subsume] the raced subject into a nationalist narrative of pluralism and consensus useful for imperialism" (Schueller 2007, 42).

In the post 9/11 context, the intent of this narrative is to securitize Palestine solidarity activists, and in doing so, deactivate their resistance and depoliticize their arguments. While Schueller acknowledges the historical legacy of multicultural imperialism, her stress is invariably on its 'new-ness' in the post-9/11 period. In the context of York University, tracing back this discourse in the *Excalibur* confirms that the lineage of

¹⁵¹ Hillel would describe the decision as impeding free speech. Moreover, Hillel would suggest that if students were not safe then this was an issue that should be addressed directly by the administration. See Weatherall 2004, 5.

multicultural imperialism extends at least as far back as the early 1990s in Canada with the discourse of 'political correctness'. Like multicultural imperialism, the discourse of political correctness relies on erasure and power inversion in order to disrupt political narratives that challenge dominant modalities of power.

For example, in her lament on the loss of value neutrality in the academy, Wilkinson (1994) identifies "aggressive advocacy of politically appropriate language" as one of the most significant threats to the university's mission, and in particular to the fields of humanities and social sciences (330). Here, Wilkinson describes the mission of the university as one in which "...intellectual freedom and the introduction of creative modes of framing reality can be cultivated....it is the context in which questioning of the existing power structure and its philosophy, as well as its own value and normative foundation, can occur" (330). Wilkinson takes issue with what she describes as an "obsession with offensive language and polite speech codes", the post-structural and deconstructionist turn (330-331), a focus on "nonexistent racial and sex biases", as well as suspicion of "theoretical neutrality", the "traditional norms of inquiry and objective measures of quality" (341). This is the 'new McCarthyism', and it ranges from "matters of taste to 'hate speech'" (330); it polices speech as correct or incorrect, and it operates by condemning, suspending and surveilling professors (332): "It's chilling. You don't have to do anything. It's all innuendo. It's a dangerous movement." (Wilkinson 1994, 334).

While the language of 'political correctness' first surfaces in the *Excalibur* in 1991, the power inversion animating the discourse appears as early as 1980. Here the concern is about "Leftist censorship" (Gardner 1991, 5) and the supposed power that marginalized groups (women, racialized persons, sexual minorities) wield, specifically through student codes of

conduct or equity offices that regulate discriminatory behaviour. For example, in response to concerns raised by the York University Women's Centre over a CYSF film series showing two "3-D sex films", Bob Wales writes in a letter to the editor that the Women's Centre's attempt to establish guidelines for the film series demonstrated to him that "Freedom of speech (and choice) is absolutely essential to a learning such as York. The fact that the films involved are considered trivial in no way diminishes the serious implications of the censorship threat." (Wales 1980, 5). In an editorial on the same issue, the *Excalibur* refers to the Women's Centre's objections as "arbitrary censorship"; university campuses are spaces where students are to develop their "critical faculties" (Editorial 1980, 6). Individuals should have the liberty to consider any and all material that they choose: "One group does not have the right to decide for another what will be deemed acceptable" (Editorial 1980, 6).

Just over 10 years later, in an editorial contemplating its own role as a student newspaper, the *Excalibur* refers to being "politically or ethically correct" as being "relatively, inconstant, arguable values – not absolutes" and that, in the name of democracy, student newspapers cannot shy away from "offensive material", and must inform, educate and provide a forum for discussion (Editorial 1991, 4). Steve Cooney writes in a letter to the editor on the silencing of the white male voice; here, professors are "hyper-concerned about the female voice" and in turn neglect the "male voice" (1991, 5). Those who support "political correctness only guard the minority victims of oppression, while they ignore members of the majority who fall prey to the same restrictions" (Cooney 1991, 5).

Similarly, Dan Gardner, member of the Osgoode Hall Objectivists writes that in recent years, the Left have become the "greatest modern source of censorship" with their pressure for "...codes of appropriate conduct and speech that will choke the attitudes of free

expression and tolerance that universities should champion (1991, 5). Terms like racism, sexism, classism, ageism and ableism are “...vaguely defined terms...placed in sanction-backed documents that, if pursued aggressively, could be stretched to forbid virtually any thought other than that of the Political Correct creators of the documents” (Gardner 1991, 5). In 1994, Muscati reports on then-second year law student, Ezra Levant, the founder of Minorities Against Discrimination, a group opposed to “affirmative action admission into law schools” (1994, 9). Commenting on the choice of the University of Alberta to adopt more stringent student behaviour codes which balance freedom of expression and the regulation of discriminatory behaviour, Levant argues that anti-discrimination policies are being brought from Ontario to Alberta, which has its own share of “politically correct thought police” (Muscati 1994, 9).

During this time, Krishna Rau reports on the formation of a new group of Ontario professors – the Society for Academic Freedom and Scholarship (SAFS) – suggesting that policies combatting sexual harassment and racism are threats to academic freedom (1992, 3).¹⁵² Echoing Wilkinson’s analysis, SAFS’ concerns were with “preferential treatment” extended to students and faculty on the basis of race, sex, etc..., equity initiatives and “so-called anti-hate legislation”; these measures were characterized as threatening freedom in teaching, research and scholarship, as well as standards of excellence. And, in response to the University of Ottawa’s decision to cancel a speech by American Ann Coulter, Matthew P Harrington wrote that this was illustrative of a “disturbing trend” of political correctness where opponents of speakers “manufacture a situation in which ‘public safety’ is a risk, thereby giving the administration an excuse to cancel the event” (Harrington 2010, A17).

¹⁵² Note, this article is in the context of the SAFS’ defense of Philippe Rushton’s right to publish racist work.

For Harrington, this tactic had been most effectively used against those with conservative views but ultimately neglects the entire context.

In reaction to this discourse of political correctness, the *Excalibur* penned a critical editorial, confronting those who argued that a “new wave of ‘political correctness’” threatened free speech and academic standards (1991, 4). In the editorial, the *Excalibur* noted that those who are called the new “campus thought police” were in fact students trying to challenge and enrich curricula that has erased and excluded them; those who were trying to introduce policies that dealt with discrimination were labelled “tyrants” and “totalitarian dictators” (Editorial 1991, 4). Writing in support of this editorial, Ruth King (Advisor to York University on the Status of Women) and Chet Singh (Advisor to the university on Race and Ethnic Relations) challenged ‘political correctness’ as a strategy of the “New Right to delegitimize antisexist and antiracist activism” (1991, 5). King and Singh noted the international nature of the discourse, citing then President of the United States, George Bush Sr. who stated that “...political extremists roam the land, abusing the privilege of free speech, setting citizens against one another on the basis of their class or race” (1991, 5).

The common link between Pipes’ discourse, and the discourse of ‘political correctness’ is that those with systemic forms of power claim the language of political dissidence, access the status of victim through a radical inversion of power, and do so strategically by depoliticizing the analysis of power relations.¹⁵³ As Gosine writes, this “[asinine] chatter about ‘reverse discrimination’ has become a new civil rights movement” which is “ready to steamroll over the heard-earned rights of oppressed peoples” (1994, 5).

¹⁵³ For example, in his book, “The New Anti-Liberals”, Alan Borovoy criticizes equality seekers (i.e. feminists, anti-racists) of becoming oppressors themselves, suggesting that the best response is to stick to “liberal values such as freedom of speech” (Martin 1999, 6).

Or, as Susan Cole states, in an article by Sam Putinja, "...the backlash is not against being politically correct....It's against being political period." (1991, 10). Cole goes on to say that "When a man sitting in a room doesn't feel like he can make a sexist comment, that isn't censorship. That's a social reality making him feel that maybe what he's thinking isn't appropriate. That is not censorship. Silencing maybe, censorship no." (Putinja 1991, 10).

In thinking about the regulation of Palestine solidarity activists as dissident citizens over time, there is an interesting story to be told here. First, the 'new anti-Semitism' and the discourse of 'political correctness' are strategies that are inextricably and discursively intertwined in that they rely on inversions of power, extreme forms of erasure, and strategic depoliticization of critical or anti-oppression politics. In these ways, Pipes' and those like Wilkinson are able to depoliticize academic freedom itself and appropriate it to their own, often contradictory, ends. This complete abstraction of academic freedom speaks to tensions in the concept. Despite the loftiness or idealism of the goals associated with academic freedom, the concept itself is deeply imbued with power.

As Jeppesen and Nazar (2012) note, universities are not ideologically neutral spaces meaning that definitions of the common or public good are fluid, and definitions of which programmes of study and research are worth protection are similarly so (90). While there might be broad agreement that academic freedom is meant to protect researchers and scholars, the content has simply never been clear (Masri 2011, 2). In this way, as Findlay suggests, the public's understanding and embrace of academic freedom and publicly funded, autonomous universities is variable, "especially when patriotism drowns out principle, and dissenting voices (like Sunera Thobani's, for example) are criticized as disloyal" (Findlay 2010, 7). Dissident speech and research that confronts the core of the university will

invariably be at risk. This illustrates why the solidarity work on York University campus in the post-9/11 period was seen as particularly threatening. During this period, the alliances formed and collaboration between Palestine solidarity activists and others adopting an anti-imperialist, anti-globalization, anti-war and anti-oppression framework, specifically threaten a profoundly neoliberal and corporatized institution.

In addition, as critics have noted, while academic freedom is critically important, it has systemically ignored white, heterosexual, and able-bodied privilege and enabled this privilege and accompanying exclusion to continually shape curriculum and pedagogy (Jeppesen and Nazar 2012, 91). This was not lost on Carol Agoc, the Chair of the University of Western Ontario's employment equity committee in 1992. In confronting the argument of SAFS, she suggested that the strength and quality of academic freedom are directly tied to "equality for groups that are underrepresented and poorly served by the university..." (Rau 1992, 3).

Second, the extreme abstraction of academic freedom explains in part how academic freedom is considered inviolable at the same time that it is continually violated. For example, in 1989, Chaim Herzog, the President of Israel, was invited to York to accept an honorary doctorate. The *Excalibur* reported that the evening before Herzog's visit, a "painted canvas reflecting sympathies for the Palestinian cause" was found on campus and confiscated by campus security (Security Beat, 1989, 2). In September 1989, calling this a "grotesque act of blatant censorship", Scott Marsden would question whether certain freedoms are suspended under "certain circumstances" in regards to the 'confiscation' of two works of art prior to the honorary degree ceremony for Herzog (1989, 5). Marsden wrote that this was an act of "political censorship which selects materials they (the authorities) will disseminate, and

reject material, in this case art works, that does not fit into their ideological system” (1989, 5). Marsden cited the York University Calendar and the Faculty of Graduate studies calendar, which described the university as one where “...citizens of the York Community should be free to speak, write, publish, create, study, teach, learn, engage in research and associate as they see fit” (Marsden 1989, page 5). The calendars stated that these freedoms are limited “...only by the law of the land and by the requirement that all persons have a sufficient sense of responsibility to respect the exchange of these same freedoms by others.” (Marsden 1989, 5).

A few months after Herzog’s honorary degree, the York Arab Students Association (YASA) would set up a campus display that was critical of Israel. The YASA was ordered to take the display down because it contained articles and books that the university did not approve of (Freeman-Maloy 2007, 25). Lazar Klein, the chair of the Israel Public Affairs Committee of the JSF stated that under the guidelines of Student Affairs, the YASA could be a cultural student group, but not a political or religious group (Phillips 1989, 7). Klein insisted that there was no “cultural literature” at the YASA’s table: “Everything they had dealt with the Israel-Palestinian conflict.” (Phillips 1989, 7).

Or, in response to Carleton University’s 2009 decision to ban that year’s IAW poster, Frank Dimant of B’nai-Brith Canada described the issue as not one of “free speech”; instead the issue was regarding the “...abuse of the human rights of the Jewish student on campus” (Butler 2009, B1). And, in the post-9/11 period, Israel advocates contended that the BDS movement violates academic freedom. For example, in reference to a call by Britain’s largest professors’ union to circulate a boycott request by Palestinian trade unions to merely consider a boycott of Israel’s post-secondary institutions, Frank Dimant, executive VP of

B'nai Brith Canada, stated that the motion to circulate a boycott request was "...reminiscent of the vile and despicable treatment that Jewish academics received under Nazi Germany" and "...commended [Canadian universities] for their moral clarity in denouncing the...boycott and for their principled defence of academic freedom" (Dimant 2007; Hanes 2007).¹⁵⁴

The third point of interest here is how through its stance on Israel, the SAFS provides an excellent illustration of the way in which not only is there a discursive link between the 'new anti-Semitism' and the discourse of 'political correctness', but there is an applied link as well. The SAFS has spoken out against employment equity goals in hiring, equity goals in the allocation of *Natural Sciences and Engineering Research Council of Canada* (NSERC) awards, the supposed politicization of Canada Research Chairs, and in defense of a professor of "men's studies and feminist propaganda". The SAFS has also waded into the Israel/Palestine files, speaking out against a 2002 petition circulated by British Professor Steven Rose calling for a suspension of institutional links with Israeli institutions until the state complies with all UN resolutions (Rose and Rose 2002, 221). SAFS would call these actions "contemptible, political attacks that violate academic freedom, diminish the dignity of the individual and debase the scholarly process" (SAFS 2002). However, regarding the March 2003 protests organized by NEWS on Iraq, where five York students were arrested, the SAFS praised the university for allowing Daniel Pipes to speak on campus, and wrote to

¹⁵⁴ The resolution was endorsed in May 2007. It called for the UK University and College Union to circulate the BDS request by Palestinian civil society, "...encourage members to consider the moral implications of existing and proposed links with Israeli academic institutions; organize a UK-wide campus tour for Palestinian academic/educational trade unionists; issue guidance to members on appropriate forms of action; actively encourage and support branches to create direct educational links with Palestinian educational institutions and to help set up nationally sponsored programmes for teacher exchanges, sabbatical placements and research" (PACBI 2007).

the President asking if “...more could be done to eliminate intimidation on campus and increase the appreciation for academic freedom and the value of reasoned discussion” (SAFS 2003).

Fourth, the SAFS is also interesting because it emerges at a very particular time in the political life of Canadian universities. In a 1995 *Excalibur* piece on equity policies at Canadian universities, Sherif describes how in 1991 Western University became the first Ontario University to hire a full-time race relations officer (1995, 14-15). In the wake of extensive protests regarding on-campus racism, York would follow with a full-time race and ethnic relations advisor in 1992, and the University of Toronto would establish a permanent office in 1993 (Sherif 1995, 14-15). By 1994, Western University would become the first Ontario university to dilute its policy, officially eliminating the race-relations officer position by subsuming it under an all-encompassing equity services officer (Sherif 1995, 14-15). Sherif contextualizes this descaling within a larger backlash against equity policies, where the trend was to rewrite policies “in a format that [pleased] those on the side of ‘academic freedom’” (Sherif 1995, 14-15). The SAFS would form at this time and actively mobilize to defend the academic freedom of controversial scholars, such as J. Philippe Rushton (Sherif, 1995, 14-15). For examples, John Furedy, then-president of the SAFS would state that equity offices on Ontario campuses should all be abolished because they are a waste of money, they hinder academic freedom and excellence, and constitute a form of reverse discrimination (Connell 1996, 7).

This strategic characterization of equity policies and codes of student behaviour as threatening is significant in that a notable change of strategy does occur in the post-9/11 period. Here, Israel advocacy groups appear to switch course in the latter 2000s in a

significant way by actively supporting the use of codes of student behaviour to constrain the political activism of Palestine solidarity activists. As described earlier, this is a significant change as campus-based supporters of Israel emphasize the ‘new’ anti-Semitism, and begin to appropriate the language of chilly climate from feminists (Cairns and Ferguson 2011, 425).¹⁵⁵ Saifer elaborates on this by noting that in 2009, the University Outreach Committee of the Canadian Council for Israel and Jewish Advocacy (CIJA) assisted in establishing Canadian Academic Friends of Israel (CAFI), a faculty-based initiative which specifically promoted “...the manipulation of Student Codes of Conduct to shut down campus debate on Palestine” (Saifer 2009, 80).¹⁵⁶

To be clear, across the entire study period, student codes of conduct as well as codes of conduct and other regulations governing student groups are used to repress student activism. What emerges as an exceptional moment through the pages of the *Excalibur* is a brief period in the early to mid-1990s, where there is an expectation that student codes of conduct have an equity orientation or that the codes are primarily about protecting marginalized individuals and groups. For example, in a 1990 article, Nensi writes of new YFS regulations governing student clubs where student clubs would be required to submit their constitutions for approval in order to meet the YFS’ new declaration of student rights to

¹⁵⁵ See, for example the Task Force on Student Life, Learning and Community as well as the commission set up and supported by Hillel of Greater Toronto, Hasbara @ York, UJA Federation of Greater Toronto, and the Canadian Council for Israel and Jewish Advocacy to “identify trends affecting the quality of life for Jewish students at York” (Stewart 2010, 53).

¹⁵⁶ CAFI would later rebrand itself Canadian Academics for Peace in the Middle East (CAP) in order to represent itself as neutral. As the Coalition Against Israeli Apartheid (CAIA) writes, CAP still aims to “...undermine pro-Palestine activism through false charges of ‘anti-Semitism’ and by silencing public critical debate about Israel on university campuses, especially during Israeli Apartheid Week (IAW).” CAP operates by soliciting university departments as campus sponsors for visiting speakers. The speakers are offered with all expenses paid, and are framed as contributing to dialogue, debate and discussion. See <http://www.caiaweb.org/wp-content/uploads/2010/10/What-is-Canadian-Academics-for-Peace1.pdf>. Accessed March 18, 2016.

“...fight all impediments to education. Sexism, racism, homophobia and other exclusionary measures as such impediments.” (1990, 2). During this period, concerns about student codes of conduct were raised largely by those opposed to the anti-discrimination impulse of the codes, labelling them ‘politically correct’ (See for example Muscati 1994, 9). For example, Laura Connell would report on the concerns of the SAFs in 1996, who submitted a letter to a governmental panel examining the future of post-secondary campus equity offices which stated that equity offices on Ontario campuses should be abolished because they waste money, hinder academic freedom and excellence, and are a form of reverse discrimination (Connell 1996, 7).

Yet, for the larger part of the study period, concerns are raised about codes of conduct and their impact on dissident and/or marginalized groups on campus, with on-campus Israel advocacy groups variably supporting the repressive use of various codes of conduct in the early part of the study period. For example, as mentioned previously, the controversy in 1989 over literature on a table of the York Arab Students Association (YASA) centered on allegations made by the JSF that the literature on the table was “hate literature”. However, the JSF strategically focused on YASA’s alleged violations of regulations respecting York student clubs. Here, the JSF suggested that Student Affairs should not recognize the YASA as a club, given that students groups cannot be political or religious, and must instead be cultural (Phillips 1989, 7).

In 1992, the Pan African Law Society would write a letter to the *Excalibur* protesting a change in the university’s disciplinary regulations which would empower the VP of Student Affairs to expel or discipline students without students having to go through the usual tribunal processes. As explained in the letter, students could be kicked off campus, banned

from classes, ordered not to contact specific persons, and pressure to submit to psychiatric and medical evaluations and pressured to sign a conditional agreement to be psychiatrically or medically diagnosed (Pan Afrikan Law Society 1992, 7). While the university would describe the regulations as necessary to “...deal with the immediate problem of the highly disruptive, (potentially) or actually violent student”, the Pan Afrikan Law Society would raise concerns regarding the use of emergency power to “[suppress] organized resistance”, noting that emergency powers are “...always projected against actively discontented groups and organizations” and that the discontent “...is usually a result of oppression and exploitation”. (Pan Afrikan Law Society 1992, 7). Five years later, following a letter from York Assistant VP, Cora Dusk, which warned students against various types of protest actions in the wake of a student occupation of administration offices over concerns about tuition hikes, Mayhall and Zmolek write in a letter to the editor that they “...need no reminders of the student code of conduct or what ‘crimes’ may result in police arrest...” but that the VP might remind student leaders of their rights (Mayhall and Zmolek 1997, 11).

Similarly, in 1998, after students disrupted a meeting of the Board of Governors to protest tuition fee increases, under the university’s regulations governing the conduct of students, then-York President Lorna Marsden warned students of “the limits of behaviour in any protest”, sending out letters of reprimand to protesters which highlighted that the university “...encourages free speech and free debate and is accustomed to groups holding peaceful and non-obstructive protests, rallies and meetings to present their views and to express their concerns. However, the protest at the Board of Governors meeting...went beyond these bounds” (Marsden 1998, 14). Students were reminded to “...bring [their] behaviour in line with the Standards of Student Conduct” and “govern [themselves]

accordingly". The increasing use of student codes of conduct would be commented on in the post-9/11 period. In 2009, the Canadian Federation of Students-Ontario chairperson would express larger concerns that student codes of conduct were being used to "...essentially clamp down on student dissent and prevent students from speaking and mobilizing for student issues and advocating for one another" (McLean 2009, 3).

By 2003, the use of student codes of conduct in the context of repressing Palestine solidarity activism would be noted in an article by Sandy Braz profiling a visiting speaker from Concordia University, disciplined under that university's Code of Rights and Responsibilities following the protests against the visit of Prime Minister Netanyahu (Braz 2003, 1). In the York context, students would then be disciplined under the code for the protests in March 2004, including the disciplining of Dan Freeman-Maloy, the protests in January 2005, as well as after student demonstrations in 2009.

Significantly, by 2007, York-based Zionist groups would themselves begin to actively advocate for stringent application of the code *against* Palestine solidarity activists. For example, in November 2007, the Campus Coalition of Zionists distributed political cartoons at a booth, and quotes and flyers that illustrated Iran in a negative tone at an event called, "Why is a Preemptive Strike on Iran Necessary". Complaints were filed against the group to the York Office of the Ombudsperson and Centre for Human Rights at York, but the coalition said they never intended to appear hateful and that all their material had gone through the Centre for Human Rights (Labine 2007, 1). In 2008, the *Excalibur* reported that McMaster university, through its human rights department, had distributed an email to the McMaster Muslims for Peace and Justice which stated that the university "...has taken the position that literature which refers to Israeli apartheid and activities promoted under the banner Israeli

Apartheid Week are unacceptable...The university takes the position that this phrase is in violation of the university's efforts to ensure that all people will be treated with dignity and tolerance." (Gheciu 2008, 1). With respect to the 2009 protests, the president of Hillel would say that the "...university should take its Code of Conduct and enforce it on a regular basis. [They should] apply it equally to all parties involved and ensure that it's applied equally and fairly" (Birukova 2009b, 3). This would be in contrast to earlier periods where York-based Zionist groups would object to the equal application of punitive or disciplinary regulations on their groups and/or members. And, in order to prevent individuals supportive of the sanctioned SAIA group from tabling, the president of Hillel would tell the *Excalibur* that "It is outrageous for York University to issue a news release announcing disciplinary actions while refusing to take action itself against a suspended group operating contrary to the sanctions against it" (Buchanan 2009, 4).

In sum, the major point here is that the complexities of academic freedom pose a number of dilemmas for citizenship scholars who might be inclined to use academic freedom as a measure of progress. York community members are not positioned equally to access academic freedom or freedom of speech, and this fundamental inequality predates the events of 9/11. Here, a strategically abstracted ideal of academic freedom actually curtails the political space available to Palestine solidarity activists. In this sense, intersectionality theory is helpful in mapping out how "hierarchical systems of oppression and exclusion...determine who does and does not have access to academic freedom" (Jeppesen and Nazar 2012, 91). Moreover, these systems of oppression and exclusion are not simply domestic, but reflective of a "global neoliberal logic of domination" meaning that the regulation of the York community through academic freedom is transnational in nature.

For example, writing about the regulation of York students in the wake of the January 2005 protests in Vari Hall, Zack Smith writes that the repression of the protests was not simply about free speech and assembly, but was linked to “war, occupation and oppression around the world” (2005, 7). These linkages are sources of discomfort for some members of the York community, as well as the administration. To illustrate, Tally Wolf, a Senate representative for CUPE 3903 explained that the protests against the administration’s repression of the January 2005 rally should have focused narrowly on the arrested students but was instead used as “leverage” for groups with a political viewpoint (Behmard and Libman 2005, 1). Behmard and Libman report that when students at the rally spoke about the police presence on campus, problems of free speech, as well as concerning corporate connections with York and “conflicting religious sentiments”, many felt “uneasy” with participating in the rally (2005, 1). David Goldberg echoed this, saying the “political side of the protest should have been eliminated”, and Daniel Jacobs stated that this was not about “Palestinian and Israeli issues”, this was “not a religious or race issue for many students” (Behmard and Libman 2005, 1).

The Mapping Conference, the Israel Lobby and the Pressure of the Brand

In 2008 and 2009, three significant conferences were scheduled to take place at universities in Toronto. In 2008, the University of Toronto administration refused to allow Students Against Israeli Apartheid (SAIA) to hold a conference in October called “Standing Against Apartheid: Building Cross-Campus Solidarity with Palestine” (Hamdon and Harris 2010, 68). Probing the reasons for the refusal, a freedom of information request was filed and over 250 pages of university emails were released, emails generated in the span of less than one week (Hamdon and Harris 2010, 68). The refusal was prompted by an inquiry from

the Executive Director of Hillel of Greater Toronto, with the correspondence yielded in the freedom of information request showing that the highest level of university administration were complicit in purposefully preventing SAIA from holding its event (Hamdon and Harris 2010, 68). The emails involved “...correspondence regarding how best to deny SAIA’s request for space to hold the conference, and from whom the message should come to make it look most legitimate” (Hamdon and Harris 2010, 68). Critically, these emails would all be exchanged before SAIA had even made a room booking request (Hamdon and Harris 2010, 68).

In March 2009, Canadian Academic Friends of Israel (CAFI), precursor to Canadian Academics for Peace in the Middle East, alongside the Centre for Jewish Studies of the University of Toronto would sponsor a conference held at the Munk Centre at the University of Toronto. The conference, “Emerging Trends in Anti-Semitism and Campus Discourse”, focused on three themes: modern anti-Jewishness or anti-Zionism; the emergence of “particular forms of increasingly prevalent discourse...and their impact on campus communities and academic freedom”, and; the history of Zionism and its expression in the state of Israel (SPME 2009). The conference description stressed a “...desire to generate fair, informed, and pluralistic discussion and to protect civil and scholarly conversation as it pertains to the state of Israel” (SPME 2009).

As an organization that was focused primarily on promoting Israel within the academy and providing support to the state of Israel, Masri describes CAFI as “a political advocacy organization comprised of academics” (Masri 2011, 14). Academic panel topics at the conference included a focus on new anti-Semitism, “The Manipulation of Human Rights Discourse: Orwellian Inversions, Group Defamation and Genocidal Affirmations”, and the

“singling out [of] Jewish self-determination”. Workshop panel topics focused on building academic exchange programs, research collaboration, and academic advocacy. Speakers were a mix of academics, sitting members of government, representatives of the state of Israel, as well as members of Israel advocacy organizations (Thompson 2011, 67). No controversy was generated over this conference during the study period.

Third, in November 2008, academics from York University and Queen’s university applied for a Social Sciences and Humanities Research Council (SSHRC) grant to support a conference, to be held at York University, looking at ways to resolve the Israel/Palestine conflict, specifically which state models offer the most promising paths to resolution (Thompson 2011, 59-60). In brief, in addition to pressure from individual faculty members, conference organizers experienced intense indirect and direct administrative and external pressure regarding the conference. Masen Masri, one of the conference organizers, writes that room bookings for the conference were mysteriously cancelled, with various university administrative units unable to give consistent answers as to why the bookings were cancelled (Masri 2011, 10). ‘Suggestions’ were also made to conference organizers, regarding the optics of balance, for example, excluding the Palestinian member of the organizing committee or balancing this individual with a Zionist member, having three pro-Israel keynote speakers, getting assistance from “senior” scholars to “vet” the conference program, and scaling down the conference to a workshop format in order to be able to exclude “problematic” speakers (Masri 2011, 10). In a highly organized attack, Canadian Zionist organizations such as CIJA, CJC, and the Jewish Defense League of Canada condemned the conference, with the latter describing the conference as “a virulent anti-Israel hate fest”

(Stewart 2010, 55). B'nai Brith Canada called for financial and moral support of SSHRC, the government, and the two universities to be withdrawn (Stewart 2010, 55).

Less than a month before the conference, Gary Goodyear, then federal Minister of State for Science and Technology, responded to the pressure of Israel advocacy organizations and requested that SSHRC conduct a second peer review of the funding application (Stewart 2010, 55). Outraged by this unprecedented level of political interference, the CAUT called for Goodyear's resignation. SSHRC would ultimately capitulate to Goodyear, asking that conference organizers account for any major changes to the conference program but ultimately allowed the conference to go ahead as planned (Stewart 2010, 55).

After the conference, York President Mamdouh Shoukri announced that retired Supreme Court Justice Frank Iacobucci would conduct an inquiry into the conference. Iacobucci's report would ultimately focus on the responsibilities attendant with academic freedom, highlighting the importance of "safety and security of those on campus; civil discourse, mutual respect, standards of integrity in research and sensitivity to equality issues" (Stewart 2010, 56). Moreover, the terms of reference for the inquiry focused not on the conduct of the university administration, but on the conduct of the conference organizers (Masri 2011, 12). As critics would note, Iacobucci did not examine the ways in which academic freedom was threatened by powerful external groups, in this case Israel advocacy groups (Stewart 2010, 56). In this way, there is consistency across the study period because despite larger concerns expressed by York community members over corporatization, Israel advocacy groups are consistently only seen as threatening the integrity of the institution by Palestine solidarity activists, whose personal insecurity is also implicated. The CAUT would subsequently launch its own inquiry into the conference which focused specifically on issues

of academic freedom. Jon Thompson, an expert on academic freedom, conducted the inquiry and wrote the final report as a stand-alone book.¹⁵⁷

These three conferences are significant in that they illustrate the way in which Israel advocacy groups have mobilized the Israel/Palestine exception to delimit the political space for Palestine solidarity activists or those who are openly critical of Israel. Here, as Nadeau and Sears (2010) argue, “...the Palestine test is becoming a crucial measure of commitment to freedom of expression, social justice, and academic freedom on North American campuses in the context of a silencing campaign to shut down Palestine solidarity work” (7). As the Mapping Conference demonstrates, the extreme end of this means shutting down any discussion of Israel/Palestine, a tactic which is certainly evident across the study period. And, in fact, as Findlay writes, the lineage of this is long, where “The links between academic freedom and the Israel-Palestine conflict have been clear ever since the establishment of the State of Israel, because this conflict has been among other things a war of academic ideas and reputations, competing histories, geographies, archaeologies” (2010, 7).

In thinking about the ways in which the institution of the university has been securitized across the study period, a further consistency can be noted about the conferences in that they depart from the dominant narrative which characterizes external pressure and influence as potentially dangerous to the university. This is largely accomplished through glorification of an abstract version of academic freedom. For example, in his report, Iacobucci adopted a seemingly apolitical version of academic freedom which stressed

¹⁵⁷ Thompson (2011) concluded that while individual York administrators acted inappropriately in specific cases, by and large the administration did commit to and apply the principles of academic freedom. In addition, Thompson found that the government’s intervention with SSHRC did seriously violate the principles of academic freedom.

narrow understandings of safety and security on campus, civil discourse, mutual respect, standards of integrity in research, and sensitivity to equality issues (Stewart 2010, 56).

Yet this version of academic freedom neglected the vulnerability of the concept to powerful external groups (Stewart 2010, 56). As Thobani writes, the abstracted version of academic freedom that even the CAUT describes as being the “lifeblood” of the university, where freedoms such as the “freedom of inquiry and research, freedom of teaching, freedom of expression and dissent, freedom to publish, freedom to express opinions about the institution” are to be “...exercised without reference to orthodoxy, conventional wisdom, or fear of repression from the state or any other source”, is in fact consistently unrecognizable to academics and student of colour, as well as to dissident campus members (Thobani 2008, page 4-5).

This simultaneously violable and inviolable principle of academic freedom has particular consequences for these marginalized citizens. For example, in thinking about consistent curtailment of the speech of Palestine solidarity activists, Razack notes that “...such bans on freedom of speech in liberal contexts are almost always about the ‘unspeakability of racism,’ or the hegemonic impulse to erase that racism from public discussion” (As cited in Nadeau and Sears 2010, 25). Put differently, if there is a fundamental character to academic freedom, it is that it does not require that every view be explored, or be balanced or be representative; rather academic freedom constitutes a commitment to “pursue knowledge and to engage scholars prepared to defend critical inquiry” (Stewart 2010, 57). In this sense, the three conferences illustrate a longer historical trend where contrary to concerns expressed over the neoliberalization of the institution and the influence of corporations, the Israel/Palestine exception insulates Israel advocacy organizations from

being seen as threatening the integrity of the institution, all the while that an abstract version of academic freedom is held up as being inviolable.

A major thread of discontinuity is, however, evident. In contrast to the pre-9/11 period, the story of the three conferences illustrates how in a qualitatively different way, the power and pressure that Israel advocacy organizations placed on York University was palpable.¹⁵⁸ These conferences did not occur outside the public eye and media. At the time of these conferences, all levels of government had been or were being targeted by Israel advocacy organizations trying to severely curtail the activities of Palestine solidarity activists. Efforts to institutionalize definitions of the ‘new anti-Semitism’ specifically targeted two of the most successful platforms for Palestine solidarity activists, Israeli Apartheid Week and participation in the BDS call. Prominent Palestine solidarity activists such as George Galloway and Mustafa Barghouti were prevented or impeded from entering Canada. Civil society organizations supportive of Palestinian human rights, such as the Canadian Arab Federation, were subject to the punitive elimination of government funding. This was the context in which the Mapping conference would proceed.

B’nai Brith Canada, CIJA, and the NGO Monitor all condemned York for holding the conference, with the President of NGO Monitor writing that the conference would transform the university “...into a macabre circus that sells hatred, martyrdom and murder” (Lustick 2009, A23). B’nai Brith Canada questioned the conference’s legitimacy in terms of academic discourse, and CIJA cast its concerns in terms of the insecurity those who support Israel would feel because of the conference (Lustick 2009, A23). In June 2009, just days prior to

¹⁵⁸ Certainly, Israel advocacy groups did target and pressure universities and individual scholars in the early period. For example, Lustick writes that in 1983, B’nai Brith US was forced to apologize for secretly monitoring scholars it deemed enemies of Israel (Lustick 2009, A23).

the conference, Howard English, the VP of Communications for the UJA of Greater Toronto stated: “Well, we know that *many Jewish donors* to the university are very concerned ...many Jewish donors have spoken in the most honest terms, in the most candid terms with [Mr. Shoukri] and other administration officials” (Valiante 2009, A15 – emphasis added). While English stated that he was not aware of a “mass withdrawal” of donations, he cautioned that if the “intimidating or hostile” atmosphere at York were to continue, “the greater the risk of donors withdrawing funds” (Valiante 2009, A15). The anger would be expressed more intensely by Meri Winstein, the national director of the Jewish Defence League of Canada: “York University deserves to be punished because it has allowed a proliferation of hate on campus” (Church 2009, M1). In another letter to the *National Post* nine months later, Tenenbaum would opine that perhaps York University should be “deleted from potential donors’ lists of possible recipients until it understands that, at least up to now, Toronto’s Jewish people have substantially supported this institution financially and with pride” (Tenenbaum 2010, A17).

This backlash against the Mapping Conference was significant given that no similar controversy erupted over the CAFI/CJS conference on the ‘new anti-Semitism’. Where Israel advocacy organizations would criticize the Mapping Conference’s academic legitimacy given that the program of speakers was not ‘balanced’ and that not all speakers were academic, no similar critiques were levelled at the CAFI/CJS conference for these same ‘crimes’. This shifting commitment to academic freedom would be evident in defence of Minister Goodyear as “simply raising concerns” about the conference; Goodyear was reacting “reasonably” to the demands of citizens who were concerned about this conference (Hunt 2009, A15). Here the concerns of academics about the unprecedented government intervention are

characterized “insular and arrogant”; “stuffy intellectuals who think they’re above everybody else and don’t have to account for how their money is being spent” (Hunt 2009, A15).

In response to the threats to pull donations, York President Shoukri expressed appreciation for private financial support but denied that the institution was “driven by who pays what” (Church 2009, M1). However, Shoukri’s denial of donor pressure erased the reality of the strong links between York University and Israel advocacy organizations, as well as the power of Israel advocacy organizations with the Conservative government of then-Prime Minister Stephen Harper. These links and relationships arguably translated into institutional pressure. Church reports, for example, that organizers for the conference were pressured by senior university officials, including the head of York’s Board of Governors, businessman Marshall Cohen, to: include new speakers to provide for “balance”; plant participants in the audience to moderate debate, and; relocate the conference to avoid a political storm of “tsunami proportions” (Church 2010, A6).

Yet, as asserted earlier, while relevant, the terrorist attacks of 9/11 have limited explanatory value in terms of accounting for the heightened nature of the attacks on academic freedom in the latter part of the study period. The lack of comparable incursions on academic freedom in the early study period may be better explained by the longer-term trends of neoliberalization, corporatization and militarization of the academy, as well as the increasing capacity to share information more easily, to organize more easily, and the increased visibility accompanying these trends.

Neoliberal Places: Vari Hall and the Regulation of Space

In thinking about the capacity for citizens to dissent, as well as the nature of dissidence, space is interesting because as O'Connor writes, space does not simply refer to a category of objects but a "perpetually transforming social function" that "reflects, informs and *is* the current organization of social relations" (2009, 25). Moments of struggle over space are ones of "acute political conflict" but they are also deeply pedagogical moments that teach us about the appropriate use of space (O'Connor 2009, 3). This is certainly the case at York University where in the post-9/11 period, struggles over space at York University have very much been struggles over a building called the Vari Hall Rotunda.

Opened in 1992, the Vari Hall Rotunda was to serve as a symbolic landmark and entry point onto the York campus (Rodman et al. 1998, 50). Canadian architect, Raymond Moriyama described how the architecture of Vari Hall reflected a particular vision of the learning process: "In Vari Hall learning is not confined to classrooms and lecture halls. Rather, it spills out into stairways, corridors, under stairs, wherever students can gather informally and spontaneously to discuss and debate" (Bonikowsky, n.d.). In addition, the building encouraged students to appropriate its space, providing "...places to watch from and places to be watched; places for confident people and places for shy people; places for contemplation and places of animation; places for intimacy." (Rodman et al. 1998, 61). This panoptical quality to the design of the space allowed students to "...be the wardens who command the view" (Rodman et al. 1998, 61).

Early in the life of Vari Hall, students, faculty and the university administration would realize its subversive potential. In 1996, at a press conference in Vari Hall in which the Ontario Minister for Education would speak, students managed to lower a huge protest banner behind the minister. The banner pictured then Ontario Premier Mike Harris wearing

a large clown nose, with text reading, "In Clowns We Trust" (Sandberg, n.d.). The structure of the building, with its multiple levels of ringed galleries surrounding a massive, open, central space proved impossible to control in terms of security (Rodman et al. 1998, 66). In this way, Vari Hall would be a "contested space", symbolizing York's "lively, argumentative, iconoclastic" character (Savio 2004, 2). Hence, from the beginning, Vari Hall would not simply be a location where political protests would occur, but Vari Hall would become a site of political struggle, where students challenged the university administration's authority to control the space (Rodman et al. 1998, 61). In this context, the *Excalibur* covers a number of protests held in Vari Hall in the post-9/11 period, with an increasing securitization of the space being apparent. Rallies against war, racism and imperialism would be held in October 2001 (Aldini 2001, 1; Aldini 2001, 3), November 2002 (*Excalibur* 2002, 3).

The *Excalibur* also demonstrates that the space was under contestation. For example, Richards and Braz describe a 2002 demonstration in Vari Hall by CUPE 3903'S Anti-Racism Working Group (ARWG) as an "unsanctioned anti-terrorist rally" (Richards and Braz 2002, 1). Despite a university "preference" that students book the rotunda through the Office of Student Affairs, the ARWG is reported as having not chosen to obtain prior clearance (Richards and Braz 2002, 1). The following year, Braz reports that at a forum on the Israeli occupation, a flyer entitled "York University imposes Security Fees on Free Space" was circulated to attendees by CUPE 3903 (Braz 2003, 10). The flyer indicated that a threat assessment of the forum had been done by security staff, which called for four York Student Security staff and 4 regular security staff (Braz 2003, 3). Three days before the forum, CUPE 3903 was told by the university that they would be billed for the security costs, totalling approximately \$5000 (Braz 2003, 10). One month later and less than 24 hours after the US

invasion of Iraq in March 2003, York student group NEWS on Iraq organized a silent rally, die-in and candlelight vigil in Vari Hall (Oliveria 2003, 1).

Two particularly significant rallies would occur in Vari Hall in 2004 and 2005. As explained earlier, in March 2004, SPHR held a rally to commemorate the first anniversary of the death of Rachel Corrie, an American Palestine solidarity activist killed by an Israeli bulldozer in the Gaza Strip. Approximately 150 counter-demonstrators “rushed” the mock checkpoint that SPHR had set up, leading to a loud and lengthy confrontation in Vari Hall (CAUT 2008, 9). As previously explained, the student groups involved would receive week-long suspensions of their group privileges, but Dan Freeman-Maloy, then a third year political science student would be specifically targeted by the university administration and suspended for three years (Behmard 2004, 1).

In a letter to Freeman-Maloy from the University Complaint Centre in the Office of Student Affairs, York Presidential Regulation Number 2 was referenced, and Freeman-Maloy was charged with using a sound amplification device without permission, or for the use of a megaphone. This regulation governs the standards of student conduct at York University, and also mandates that if serious infractions are not dealt with through local mechanisms within colleges or Faculties or by mediation, formal adjudicative procedures should be followed (CAUT 2008, 10). Barring a decision to refer the matter to civil, criminal or other legal processes, the procedure to be followed here was to hold a hearing before a trial panel of the University Discipline Tribunal to determine the nature of the misconduct as well as the punishment (Behmard 2004, 1; CAUT 2008, 10).¹⁵⁹ The procedural guidelines to be followed in this context called for full disclosure of evidence, open hearings, the right to

¹⁵⁹ See <http://calendars.registrar.yorku.ca/2001-2002/ugfiles/univpol/5.htm>. Accessed March 19, 2016.

representation, “to call evidence, make arguments, and cross-examine witnesses giving oral testimony” (CAUT 2008, 10-11). The procedures also specified an appeal process (CAUT 2008, 11).

Freeman-Maloy, however, was treated as an exception, and his punishment was escalated directly to an expulsion (CAUT 2008, 11).¹⁶⁰ In this sense, President Marsden arbitrarily breached due process and fairness expected in the regulation (CAUT 2008, 11; Behmard 2004, 1). Three months after Freeman-Maloy was suspended, he would be reinstated but at that point, the administration would place prohibitions on the use of Vari Hall and Ross Link (O’Connor 2009, 50). Without consulting the university community, the president revised the “Temporary Use of University Space Policy and Procedures” (TUUSP) policy (O’Connor 2009, 2). The revised policy included a statement that the university’s lands and properties were private, new rules in terms of who could book University spaces, a requirement that risk assessments be undertaken for “High Profile, Controversial or High Risk External Speakers”, and prohibitions on the use of campus spaces, including the Vari Hall Rotunda (O’Connor 2009, 2; CAUT 2008, 17)). The extensive paperwork and long lead times required for booking facilities, as well as the potential for high security and insurance costs were of concern to student groups (CAUT 2008, 17).

Protests arose again on January 20 2005, this time coinciding with George W Bush’s inauguration for his second term as President of the United States. GRAIN organized a demonstration in Vari Hall Rotunda in order to provide members of the York community with “...an opportunity to speak out against the Bush administration and to make links

¹⁶⁰ Palter reports that Freeman-Maloy was suspended through the York University which gives powers to the president to formulate and implement regulations governing students and student activities (Palter 2004b, 1).

between the business interests of some members of the York University Board of Governors and the corporations that benefited from the policies of the Bush government” (CAUT 2008, 4). During the protest, six Toronto Police Service officers gathered alongside members of the York University security service, and approximately 40 minutes into the protest, the police officers advanced on the group of demonstrators (CAUT 2008, 4). In a photo montage, the *Excalibur* profiled the brutality with which demonstrators were dealt by the police officers (*Excalibur* 2005, 2). In one photo caption, Nick Birtig, a second year undergraduate political science student, states that police officers brought him to an empty room and hit him with their fists and feet; Birtig who was bleeding from both nostrils, his lips and had a black eye, was subsequently transferred to the hospital for his injuries. In another photo caption, PhD student Greg Bird is described as getting hit with police batons and fists. Alissa Watt, one of 5 students arrested, reported having her face forced to the ground by a member of York security while she was handcuffed by a police officer, being “paraded” through campus, verbally assaulted, strip searched, witnessed another student being kicked in the face by a police officer, and was in a holding cell for seven hours (Watt 2005, 8). Watt would write: “I now feel unsafe in my own school, to which I have paid exorbitant amounts of money to attend. I have restrictions concerning whom I can associate with. I have a year or more of court dates ahead of me and everything I say has to go through a lawyer” (Watt 2005, 8).

York University Senate would pass a motion to condemn the use of police violence, expressing “disapproval of the administration’s decision to invite police onto campus to deal with an otherwise peaceful protest” (Sitayeb 2005, 1). The YFS described the reaction as “heavy-handed” and part of a longer lineage of university practice “curtailing free speech, student rights to organize and student access to space on campus” (Editorial 2005, 2). The

President of the Graduate Students Association would describe the acts of the administration and the police as violating free speech, preventing the dissemination of important information, and a condonation of police brutality (Editorial 2005, 2). YUFA expressed concern over the erosion of academic and personal freedom of expression, and the larger issue of the conversion of public space into private space (Editorial 2005, 2). And, Sima Zerehi, a member of Coalition Against the Deportation of Palestinian Refugees in Toronto, criticized York security officer, Ken Tooby: "When those security officials don't follow their own mandate and violate the very principles of their job and physically engage in violent activity targeted at students, they have to be held accountable" (Benhard 2005, 6).

Just six days later, Paul Cellucci, then US Ambassador to Canada, would speak at York University campus. Osgoode Hall Law Activists would hold an open forum speaking out against the lockdown of Osgoode Hall to prevent demonstrators from attending the Cellucci event (Chung 2005, 4). Students were required to show identification before entering the building, demonstrators were locked out, and police horses encircled the protesters (Chung 2005, 4). In response to the treatment of protesters, Osgoode Hall Professor Michael Mandel expressed his "...disgust at the York administration and Osgoode for sending the police on campus...bringing Cellucci is purely propaganda, he's not even an academic...This University belongs to the students - you are not trespassers or guests....It's the warmongers who intimidate the opposition...they should beg for your permission to be here." (Chung 2005, 4). By 2007, the *Excalibur* would report that the administration of the York Student Centre building planned to install video cameras as a response to vandalism the year prior. The vandalism in question involved placing anti-Israeli apartheid paraphernalia or stickers on a Student Centre elevator (Fletcher 2007, 3).

Where revisions to the TUUSP would follow the 2004 protests, revisions to the provisions governing student conduct would follow the 2005 protests. In September 2006, the university would release a new “Student Code of Conduct”. As the CAUT explains, in section 2, the code specifies that nothing in the code is intended to “...suppress peaceful protest, civil debate, or lawful conduct...so long as that conduct is not prohibited by this Code” (CAUT 2008, 18). The CAUT notes that this wording suggests that the university might still prohibit conduct that is technically lawful in Canada (CAUT 2008, 18). Moreover, the code has a far reach, governing on-campus conduct as well as “conduct not on University premises but which has a real and substantial link to the University” (CAUT 2008, 18).¹⁶¹

The justification

There are three main ways in which York University administration responded to critics of the university’s approach to dissident political activity. First, the administration justified their actions through the ‘responsibilization’ of the protesters. For example, with respect to the March 2004 protests, the administration reoriented focus away from their choices by stressing that since Hillel and SPHR had been notified in advance to not hold their events in Vari Hall, they were aware of the potential consequences (Oliveria 2004b, 1). This deflection away from the ‘content’ of the administration’s decision is evident in President Marsden’s statement that in 2002, based on consultation with the York Senate, the university decided that armed security personnel were “not appropriate for our campus”, meaning instead that police would need to be on campus more frequently (Sitayeb 2004, 1). Second,

¹⁶¹ The epilogue to the Vari Hall story is that in 2011, the “underutilized” space in Vari Hall Rotunda would be redeveloped to “...better reflect its central role as a crucial circulation hub, information centre, social and meeting place on campus”. No longer an open space, “perimeter benches, touch down computer counters, a central information desk and display kiosks” would all be added. See <http://gowhastings.com/portfolio-item/vari-hall-rotunda/>. Accessed March 19, 2016.

the administration continually stressed that in contrast to the protesters, their responses were balanced and measured because they were safeguarding the rights of students who wanted to attend class (Oliveria 2004a, 1).

Third, and related, the administration justified their actions by stressing the importance of security. For example, President Marsden stated that the reason for police intervention in the protests in 2004 and 2005 was because of the “confrontational attitude” of some protesting individuals (Sitayeb 2005, 1). Regarding the suspension of Freeman-Maloy, the administration stated that his actions “created concern for the university requiring *security* interference” and that Freeman-Maloy had disregarded the “...rights and security of the vast majority of York students who wish to pursue their studies in a peaceful and safe environment” (Behmard 2004, 1 – emphasis added). In the letter accompanying his rustication, President Marsden warned Freeman-Maloy: “During the October and March demonstrations, you interfered with the proper functioning of University programmes and activities, contributed to the threat of harm to the safety and well-being of York University community members, and failed to abide by reasonable instructions given orally and in writing by an official of the University...” (O’Connor 2009, 49). From the perspective of the administration, Freeman-Maloy had “manufactured confrontation” which posed a threat to other students’ safety and rights (Behmard 2004, 1). This appeal to security betrayed the fact that on the days of protest in question, campus security had not filed any reports citing the need for intervention on the basis of megaphone use (Behmard 2004, 1). Moreover, the appeal to security betrayed the fact that in the wake of growing opposition to the university’s decision to suspend Freeman-Maloy, then-President Marsden forwarded a letter to

Freeman-Maloy's counsel saying that the university would appoint a panel to reconsider Freeman-Maloy's suspension if he agreed to sign the following statement:

I acknowledge that my conduct at York University during the academic year of 2003/04 fell below the standards expected of students at that University in a number of respects. Specifically, I realize that statements I made in respect of Henry Wu, a member of the Board of Directors of the York University Foundation, were personally threatening to him. The demonstrations which I organized and led were conducted in locations and in a manner which I knew was not permitted by the University's rules and unnecessarily disrupted academic activity and inflamed confrontations. I ignored the University's published rules and requests of University officials to alter my plans and behaviour, and to meet with them to discuss my behaviour. I understand that my behaviour constituted breaches of the Standards of Student Conduct set out in Presidential Regulation Number 2 and fell below the standards expected of York University students. I am sorry for the disruptions and the other adverse effects caused by my actions (As cited in CAUT 2008, 10).

Freeman-Maloy would refuse to sign the statement. And, as the CAUT notes, the reference to Henry Wu has no relationship to the protests in Vari Hall "...[raising] concerns about what was really driving the decision to discipline Freeman-Maloy and on what grounds the political activism and freedom of speech of a student off-campus were being policed by University officials." (CAUT 2008, 10).

The securitization of the university in these significant post-9/11 events relies on two related strategies: militarization and depoliticization.

Militarization, transnationalism, resistance and regulation

First, as Vari Hall is increasingly mobilized as a dissident political space, the reaction of the administration is more formally rooted in the language of in/security, and the reaction is increasingly militarized, a process that is inextricably transnational. Temporally, this shift

occurs after 9/11 but more specifically, after the 2002 Concordia protests.¹⁶² In addition, the shift also seems to coincide with the deepening nature of the solidarity work of Palestine solidarity activists, who increasingly cross-mobilize with anti-war, anti-imperialist, anti-globalization and anti-oppression activists and can communicate more rapidly in the age of the internet, and increasingly through social media. These alliances would focus on the ways in which neoliberal globalization preserves and perpetuates relationships of dominance and exploitation, including colonialism and occupation (O'Connor 2009, 4). Moreover, this neoliberal globalization "drives the privatization of public institutions (including universities) and the exploitation of public monies and resources for private gain" (O'Connor 2009 5). In this way, the focus on the politics of space on York campus demonstrates that while "...imperialism seems to take place 'at a distance' from Canadian university campuses...imperialist domination and direct resistance are very much alive on campus." (O'Connor 2009, 5)

This transnationalization is evident throughout the study period in terms of both resistance and regulation. For example, in the early 1990s, campus members had clearly identified these transnational relationships of domination as threatening to the integrity of the university as they mobilized against South African apartheid by demanding that pension

¹⁶² In 2003, Leila Khaled Mouammar, a Concordia PhD student would come to speak at York University. Mouammar was one of 12 students named in heading the demonstrating against the visit of Prime Minister Benjamin Netanyahu. Mouammar explained that the event had been sponsored by Concordia's Hillel student group as well as the Asper Foundation, and that the general student population had received little notice of the talk and were given little opportunity to obtain tickets to attend. Mouammar explained that students were prevented from accessing the building where the talk would be held, and that the building was effectively turned into a military zone. She was later found guilty of misconduct according to the university's Code of Rights and Responsibility (Braz 2003, 1).

funds divest holdings in companies with investments in South Africa (Rau 1991, 3), as well as lobby against university links to the tobacco industry (Ottawa Bureau 1996, 5).

In 1998, Hopkins and Vallis reported that the University of Victoria declined a \$2000 scholarship offered by Shell Canada, with the school senate rejecting the scholarship given allegations that Shell had violated the rights of the indigenous Ogoni people of Nigeria (Hopkins and Vallis 1998, 5). In 1999, Pacienza reported that members of the York community were outraged because the university's pension fund had \$7.4 million invested in Talisman Energy, a Calgary based oil company drilling in southern Sudan and accused of helping fuel the civil war (Pacienza 1999, 1). Demanding that the funds be divested immediately, David Robinson, director of public policy with the CAUT remarked that, "Universities, as public institutions, should have the highest ethical standards in their investments." (Pacienza 1999, 1).

After 9/11, in a 2002 rally opposed to possible attacks on Iraq, a university wide walkout was organized by Now End War and Sanctions on Iraq (NEWS on Iraq) (Oliveria 2002a, 1). Focusing on American imperialism and the implications of American and Canadian foreign policy, protesters argued that the oil corporations responsible for the sanctions on Iraq were the same who donated to the university (Oliveria 2002a, 1) In this period, the Grassroots Anti-Imperialist Network (GRAIN) would clearly represent the recognition of and resistance to colonialism and empire building (Freeman-Maloy 2005, 8). Key to the January 2005 protest organized by GRAIN was the condemnation of the university for "...its ties to war, occupation, and oppression around the world" (Freeman-Maloy 2005, 8). In 2008, protesters would also demand an "audit on potential ties between the university

and the military, the end of military recruitment on campus and a guarantee that students and workers will have the right to protest against imperialism” (Photo report 2008, 6).

Commenting on the January 2005 protest, Freeman-Maloy argues that given the deep connections between the university administration and the corporations benefiting most from “the project of the US-led empire”, the repression of the protest was not a surprise, but that the intensity was (Freeman-Maloy 2005, 8). In fact, with the increasing entrenchment of global neoliberalism in the university, this repression is described as almost inevitable: “Indeed it may only have been a matter of time before the repression and brutality that typifies this project spilled over into the hallways of this campus.” (Freeman-Maloy 2005, 8). Drawing very explicit links between militarization and corporatization of the university, Zack Smith writes that the university’s connections to Lockheed Martin, Esso, Newmont Mining, and Metropolitan Hotels are “...the real reason security and police were so intent on targeting this January 2005 demonstration” (2005, 7).

Two years prior, in response to York community members organizing an anti-racist demonstration and participating in a worldwide student strike, the York administration would bring police onto campus for the first time (Freeman-Maloy 2004, 9).¹⁶³ In the wake of the January 2005 protests, the YFS and York Senate passed motions condemning the presence of police on campus to break up protests, as well as condemning the use of force. Moreover, in the wake of the February 2009 protests, Stewart (2010) describes in troubling detail how on February 24, 2009, B’nai Brith Canada called on the Canadian Association of Chiefs of Police to be on high alert with respect to the policing of university campuses (52).

¹⁶³ As early as 2000, after two weeks of strike action, CUPE 3903 was forced to move picket lines off of university property because of threats of police action and arrests (Liao 2000, 1).

While corporatization and militarization are historical trends on York University campus, with respect to the regulation of space, the *Excalibur* seems to indicate both trends of continuity and change.

First, in terms of continuity, the *Excalibur* illustrates that on York University campus, dissident citizens and Palestine solidarity activists in particular function within a constant state of uncertainty. This state of uncertainty is not, however, framed as insecurity. In the case of Israel/Palestine, the insecurity expressed by pro-Israel supporters, as well as the security of the university itself, receives the bulk of the attention. In this way, Palestine solidarity activists as dissident citizens are consistently framed as outside the community to be secured. This exclusion is strategic and political. For example, after the January 2005 protests, all charges against protesters were dropped just months later¹⁶⁴. Zac Smith of GRAIN would state that these acquittals demonstrated that the charges were political in that they were an “...attempt to deter those engaged in, or supportive of anti-imperialist organizing on campus” (Villeneuve 2006, 3). Writing about the same protest, Maryam Behmard states that the police should not have been on campus; the repression constituted “institutional totalitarianism in an academic setting when unarmed students were beaten senselessly to prove a point” (Behmard 2005, 7). The repression of the protest was intended to show students that they “...should be disciplined for challenging the system, or taught a lesson in the consequences of disobeying academic bureaucracy” (Behmard 2006, 7).

¹⁶⁴ By 2006, graduate student Greg Brid was acquitted of the charge of attempting to disarm a police officer, and the charges of 6 other students were dropped in exchange for community service. The media relations officer for York would describe the university as content that no student ended up with a criminal conviction, but would not issue an apology to the student who was physically assaulted (Villeneuve 2006, 3).

This continuity is evident across the time period. For example, in 1998, the *Excalibur* reported on a recent wave of arrests at Toronto political events, leading activists to believe they were being harassed unfairly by the police (Hassan-Gordon 1998, 6). Authorities would justify their actions in the interest of public safety, as the Anti-Terrorism and Threat Investigation Section of the Metro Intelligence Services was involved in surveilling political protests, specifically targeting left-wing political groups (Hassan-Gordon 1998, 6).

In 1999, Bradley and Merzaban report that former Canadian Solicitor General Herb Gray revised a CSIS policy directive for operating on university campuses in 1997 (1999, 7). The revised policy authorized that the director of CSIS could approve certain activities involving undercover human sources on university campuses across Canada (Bradley and Merzaban 1999, 7). Prior to 1997, the approval of the solicitor general was required for CSIS to use human sources on campus (Bradley and Merzaban 1999, 7). William Graham, then CAUT president and University of Toronto philosophy professor stated that, "If people on campus know that there are surveillance activities in general, which are not mandated by a responsibly elected official, then it could have a chilling effect on freedom of discussion and thought." (Bradley and Merzaban 1999, 7). In 2000, CSIS released a report, "Anti-Globalization: A Spreading Phenomenon" as part of its mandate to investigate any issue with potential to cause threats to public or national security (Dubinsky and Hooi 2000, 11). That same year, forty undergraduate students 'stormed' the office of York VP Academic to show support for striking members of CUPE 3903. The protest was cut short when police and York security threatened to have the entire group arrested (Szekely and Liao 2000, 3).

Second, in terms of continuity across the study period, the securitization of campus through militarization relies on the racialization of danger. For example, with respect to the

banning of IAW posters at Carleton University, the University of Ottawa, Wilfred Laurier University and Trent University in 2009, Nadeau and Sears (2010) describe how various university administrations adopted an irrational fear locating violence in the poster itself (26). These posters were described as too threatening, inflammatory, harmful to civility and civil discourse, and a danger to rights and dignity (Nadeau and Sears 2010, 26). Laura Grosman, VP Advocacy for Hillel Ottawa's Israel Awareness Committee supported the decision of the university for recognizing that posters like this could lead directly to "threats, harassment and intimidation on campus" (Godmere 2009, 5). Here, the posters were described as objectionable because they did nothing to promote "real dialogue" and instead fostered a "toxic" and "intolerant" campus environment (Godmere 2009, 5).

This focus on fear of violence does not, however, operate outside of a racialized and gendered logic (Nadeau and Sears 2010, 26). Rather, this fear of violence and the irrational emphasis on an unsubstantiated threat is situated within a mix of post-September 11, "...anti-Arab/Muslim 'national security' tropes, civilizational threats, and racial Palestinianization historically deemed dangerous as a permanent 'state of passion' (i.e., irrational, uncivilized, calculating, incapable of sensitivity, violent)." (Nadeau and Sears 2010, 26). To be clear, however, these tropes are present across the study period, as are *broad* notions of in/security. For example, Bipin Lakhani's posters are described as propaganda, provocations and sensationalism; they contribute to violence which renders "reasoned discussion impossible" (Editorial 1982, 5). Yet, this seemingly innate irrationalism is not confined to the posters, but is also cast upon Lakhani who is described as profoundly "irresponsible" Editorial 1982, 5), incapable of cultural "sensitivity" (Editorial 1982, 3), lacking morality and integrity and a "self-serving parasite of the people" (Till 1982, 4).

What does appear to shift in the post-9/11 period, particularly after 2004, however, is the formalization of militarization and the language of security at the upper level of university administration *as a basis for institutional action regulating dissent*. This is a powerful move in that it is deeply political but depoliticized as implicating only concern for the safety of students, forgetting that some students are explicitly left out of this concern.

For example, in a 2004 editorial, Aliza Libman writes about the protests against Daniel Pipes' visit for Israel Fest 2003. Libman states that the "[threats] and fears of violence" associated with protests against Pipes led to "security policies that have been crippling for many campus groups" in terms of freedom of expression (Libman 2004, 9). For Libman, this "turn of events" is "unfortunate" but is also a warning sign. Her response to this warning is to celebrate this years' Israel fest as a "[celebration] of culture", where the focus is on "celebrating Israel as a source of religious inspiration, national pride, and hope for peace between nations locked in a bitter dispute" (Libman 2004, 9).

Others would adopt this narrow view of who or what was threatened during the March 2004 protests, with the VP of academic and university affairs of the YFS, Stefan Santamaria stating that he did not believe that the university had rusticated Freeman-Maloy because of free speech – "...it had nothing to do with his political views, only his actions on campus....we're in university to learn as the primary objective, secondary should be political activism." (Behmard 2004, 1). This would be echoed by Noah Zatzman in 2006 who writes that he and other members of the campus Jewish community support Freeman-Maloy's rights to express his opinions publicly but they do not support "...breaking a security code and risking public safety as a means of discourse. Freeman-Maloy would do well to advise his organization that they could book a room – just book a room!" (Zatzman 2006, 11). Sean

Palter would also defend the actions of York security, saying that they have “...done nothing but try to help students, all the while being handcuffed themselves by administrative policies and *lack of respect* by many students” (2006, 6). It is not Freeman-Maloy’s freedom of speech that is threatened but he who threatens freedom of speech. Freeman-Maloy’s argument about the ways in which “Israel advocates” require that critics of the state of Israel must “...learn to satisfy the strictest requirements of propriety, clarity and accuracy” (Freeman-Maloy 2006, 10) is recoded into an assertion that Zionists should be “barred from the governance of York University” (Zatzman 2006, 11). Zatzman exclaims that Freeman-Maloy should: “Take [his] McCarthyism back where [he] found it.” (Zatzman 2006, 11).

The tangible impact of this is that dissident and marginalized citizens are those most likely to find that increasing formal surveillance and the incursion of police onto campus spaces are repressive and actually fomenting of insecurity. In this sense, appeals made to this version of security by Israel advocacy organizations and students groups are demonstrative of the larger lack of anti-racist and anti-oppression solidarity evident throughout the study period. Moreover, appeals to this version of security rely on a certain trust in the power of the state and institutions of the state.¹⁶⁵ For example, in 1982, Schmied reports on concerns raised by the JSF that York campus security was slow to respond to a

¹⁶⁵ In addition to narrowing the political space available for dissident citizens, over the thirty year period covered, there are few moments in which anti-racist solidarity is practiced between Israel advocacy student groups and other social justice groups. The one notable exception is the strategic attempt in the mid-1990s to link the state of Israel to the US civil rights movement. Here, an on-campus celebration of Israel Week recognized the creation of the Martin Luther King memorial forest in the Galilee-region of present-day Israel by the Jewish National Fund. As Benjamin (2010) writes, the Jewish National Fund was created in 1901 with the discriminatory purpose of acquiring land exclusively for Jewish settlement by actively removing indigenous Palestinians. In the contemporary period, the JNF cultivates a reputation as an environmental organization through its forestation policies, the Jewish National Fund practices a form of greenwashing in which trees are “purposefully used to plant over and to hide villages from which Palestinians were forcibly removed” (Benjamin 2010). In contrast, quite early on, Palestine solidarity activists develop very strong alliances and solidarities with a range of anti-oppression groups, a phenomenon that grows stronger after the terrorist attacks of September 11, 2001 and the subsequent attacks on Afghanistan and Iraq.

number of anti-Semitic incidents on campus (1982, 1), a concern that would be raised again that month in the context of compelling the CYSF to react punitively against Bipin Lakhani (Editorial 1982, 5). Two months later, campus security would be called to respond to a disruption by the JDL to a film screening on campus (Moffat 1982, 4). The following year, the JUSF would again criticize the security policies of the university with respect to the restrictions placed on the use of the Bearpits (Symons 1983, 1s).

A shift would occur in 2004. Hillel@York organized a Jewish Unity Rally to combat campus anti-Semitism, a rally which members of Hillel felt they were not adequately protected (Szekely and Oliveria 2004, 1). The president of Hillel stated that the group did not blame security but rather the university administration for moving the location of the rally twice on the day of the event (Szekely and Oliveria 2004, 1). And, in response to the administration's suspensions after the March 2004 protests in Vari Hall, the president of Hillel stated he was upset the administration issued equal punishments to both groups "...when clearly SPHR did far more heinous acts than Hillel" (Oliveria 2004b, 1). By 2006, however, Israel advocacy organizations would more consistently be making appeals that were consistent with the larger trends of securitization and militarization. For example, in regards to the Vari Hall protests, president of Hillel, Adam Hummel, denied that Hillel organized a counter-protest, stating instead that individual members had attended the solidarity protest because they were simply concerned: "Hillel didn't organize anything; we didn't officially organize anything. There were a lot of Jewish students who felt the need to be there and have a presence, so I was there just making sure everything was running okay, just trying to be safe and to help security out." (Miller 2006, 1). In 2009, along with supporters, Hillel@York would demand that the administration prevent people associated

with SAIA from tabling and leafleting on campus (Freeman-Maloy 2009, 8). And, reporting on a report by a commission of Toronto-area Jewish groups¹⁶⁶ focusing on the campus environment for Jewish students, Valiante writes that in submissions from students, faculty and the Jewish community, respondents thought that York University professors should be prohibited from expressing their personal political views that are unrelated to the course they are teaching (Valiante 2009, A15).

The report asked the university to establish a confidential hotline where student could report abuse, including having a school security force with “enhanced training in order to deal more effectively with disruptive events and individuals” and to “rigorously define the academic standards expected of all university sponsored conferences” (Valiante 2009, A15). The report also suggested a complete prohibition on the use of Vari Hall for political purposes, an increase in the severity of sanctions for those violating the student code of conduct, and empowering York security to issue reprimands with a staying power of two years on student transcripts (Valiante 2009, A15). This shift is strategic in that it places Israel advocacy groups as on side with security and the administration, and as apolitical and reasonable; this shift occurs as the university is an increasingly neoliberal space whose ties to Israel advocacy organizations has deepened.

The liberal campus, neutralization and space regulations

By regulating political dissidence through the language of security, the actions of the university are depoliticized and it becomes possible, if tenuous, to sustain the image of the campus as a liberal space. As the *Excalibur* illustrates, this image is important to the

¹⁶⁶ This included the United Jewish Appeal Federation of Greater Toronto, Hillel of Greater Toronto, Hasbara at York and the Canadian Council for Israel and Jewish Advocacy. This list of recommendations was delivered to the York University Task Force on Student Life, Learning and Community.

university. For example, regarding the decision of the administration to let Daniel Pipes speak, Dim Nunn, the university's director of media relations at the time, stated that "York has a strong tradition of providing a venue for the free expression of a broad range of opinions on a whole range of topics, including this one...[Daniel Pipes] has a right to express his views as long as he doesn't break the law" (Canadian Press 2003). In response to concerns over why the university administration continued to allow public displays on Israel and Palestine, Marilyn Stewart stated for President Marsden that:

Respecting free speech is not easy. It means that all of us hear and see words that challenge our values, beliefs and sensibilities. It means that people with whom we profoundly disagree have the right and opportunity to express their views, provided that they do so within the laws of our country and in a peaceful fashion. It is often irritating, sometimes enraging and occasionally offensive. But it is fundamental to the rights and freedoms of us all...At York, where diverse opinions abound, we have an opportunity and an obligation to demonstrate that in our community and our country we deal with controversy peacefully and respect the rights and responsibilities of a democratic society...Most students may not want to get involved but all of us need to understand the complexity of the issues underlying these tensions (Stewart 2003, 7).

In addition, Stewart explained that the university has prioritized ensuring that members of the York community "...have the opportunity to make their voices heard *in a context of security*" (Stewart 2003, 7 – emphasis added). That fall, in response to a letter circulated by Students for Justice and Equality (SJE) which called for the resignation of President Lorna Marsden for her decision to introduce Israeli cabinet minister, Natan Sharansky, the President stressed that universities neither endorse nor oppose the views of states, but do

provide “a forum for these discussions to take place in a free and respectful manner” (Oliveria 2003, 5)¹⁶⁷.

These proclamations would be difficult to reconcile with the ways in which dissident political activity would be repressed on the York campus. Strategically, however, by appealing to “neutral” rules, the administration would both secure the university from dissidence and secure this representation of the university as a profoundly liberal space.¹⁶⁸ As Hamdon and Harris (2010) explain, in the contemporary period, one of the most widespread ways in which Palestine solidarity activists have been targeted has been by frustrating attempts to hold Israeli Apartheid Week. In addition to allegations of anti-Semitism and overt attempts to ban the event, in the latter part of the 2000s, university administrations would attempt to thwart IAW by denying space to hold events, and insisting on an extraordinary adherence to logistical procedures that are presented as ordinary (Hamdon and Harris 2010, 68).

This latter point, where logistical and administrative procedures are presented as ordinary and applied equally to all, is of importance given that at the same time that prohibitions were placed on the use of Vari Hall, David Noble was being subject to a vigorous campaign of defamation, and the president of the university was visiting Israel with the head of York’s main fundraising body, the past director of the Canadian Institute for International

¹⁶⁷ SJE contended that President Marsden’s act constituted “gross misjudgment” and that the president of the university must “[represent] all students in a non-biased fashion” and not be a “catalyst for divisions and animosity amongst student groups” The group objected to the introduction of Sharansky given that Israel has violated several international conventions and UN Security Council resolutions (Oliveria 2003, 5). In 1982, Sharansky was also the recipient of an honorary doctorate from York, awarded in absentia while he was in a Soviet jail (Ruimy 1987, A2).

¹⁶⁸ The question of securitization of the university is also complicated in that universities would also be grappling with securing their campus communities and their campus spaces in the wake of the Montreal Massacre in 1989 and the shootings in the United States, for example the Virginia Tech shootings in 2007. The data generated in the *Excalibur* did not pull articles addressing these types of security concerns.

Affairs of B'nai Brith (O'Connor 2009, 51). Second, these regulations have a differential impact. Strategically, Israel advocacy groups on campus are better positioned to lose these kinds of political spaces on campus given that they already have institutional access. David Noble, for example, speculated that the invitation to Daniel Pipes was a moment of deliberate provocation designed to create a heightened and controversial environment on campus where a "regime of repression" would be established on campus which included "charging of prohibitive security fees to student groups wishing to bring controversial speakers to campus, severe limits on leafleting, postering and tabling, and outright bans on the use of central campus space" (Noble 2005). Moreover, these exorbitant and arbitrary security fees forced on student groups, have a particularly onerous consequence for dissident student groups not supported financially, administratively or legally by external organizations (O'Connor 2009, 50; Etedgui 2004, 1; Freeman-Maloy 2004, 9).

Palter notes this disjuncture between the regulation of space and the university's stated commitment to liberal values of academic freedom and freedom of speech: "It gives off the impression that you are for freedom of speech as long as people do not really want to exhibit it....Not allowing protests in Vari Hall, the location with the highest level of student population per day, gives off the impression that free speech is okay, as long as no one is around to hear it" (Palter 2004b, 1). As cited by the CAUT, two York faculty members, Nick Lary and Ricardo Grinspun argued that the "...TUUSP document can be used as a powerful mechanism of control and surveillance. While couched in language of due diligence about safety and property rights...the policy continues to institutionalize procedures and requirements that will work to limit freedom of speech and many academic activities on

campus.” (As cited in CAUT 2008, 17). The CAUT further argues that in the case of the TUUSP and the “Student Code of Conduct”,

...the dispassionate language of policy and procedures is utilized to camouflage mechanisms that have the potential to infringe in a significant manner on academic freedom and freedom of speech. The policies normalize narrowed understandings of teaching and learning, the purposes of university education, and the social responsibilities of members of the academic community...in the hands of administrators, policies and procedures may be called into use as forceful disciplinary tools to suppress legitimate debate and dissent. (CAUT 2008, 18).

While seemingly exceptional, this kind of securitization of space is not unique to the post-9/11 period. Rather, the appeal to ‘neutral’ rules which regulate how space is used and accessed on York University campus is, in fact, a consistent way in which the institution of the university is secured and political dissidence is contained.¹⁶⁹ These regulations have ranged from tabling restrictions, the regulation of student group status, regulations governing campus room bookings, the imposition of onerous security fees, and restrictions on activities undertaken within particular spaces. As early as the late 1980s, space and the appropriate use of space was an issue on York University campus, with student groups being banned from tabling in a university space called the Bear Pits. The justification provided by the university was initially that crowd gathering activities would be banned in order to ensure “comfortable traffic flow” through the area, and then later the rationale is expressed in terms of maintaining security with respect to fire regulations. Debbie Bromley, an

¹⁶⁹ The application of neutral rules, and granting anti-Semitism exceptional status has particular consequences for academic freedom and freedom of speech. For example, Nadeau and Sears write regarding the banning of IAW posters, noting how the exceptional nature of anti-Semitism is rolled out in an entirely unexceptional way. An administrative office will cite a vague complaint that centers on the discomfort caused to a member of the campus community; this complaint is followed by an immediate ban or removal (Nadeau and Sears 2010, 25-26). No explanation or evidence is given for this exceptional treatment, with the original complaint and justification sustained (Nadeau and Sears 2010, 26).

assistant at Student Affairs would later state that YASA had "...articles and books that we don't approve of at the university" (Phillips 1989, 7).

As in later periods where student groups actively protest the university's attempt to ban political activity in Vari Hall, student groups protested this regulation of space in the early period, describing the Bear Pits as the liveliest centers for discussion on campus and as political forums. By way of resistance, students launched a series of weekly "ironing board" protests in which thirteen student clubs and organizations set up ironing boards in order to "reclaim the public space that once existed for students in Central Square" (Staff story 1990, 1). The rationale guiding these protests was that ironing boards set up in the corridors are not as wide as regular tables, hence do not constitute a fire hazard any more than loitering students do.

In the post-9/11 period, groups would also publicly criticize the administration's regulation of space. For example, in regards to the March 2004 protests, YFS President Paul Cooper issued a press release stating that the university should encourage "...discourse on controversial issues such as the conflict in the Middle East instead of stifling them..." (Oliveria 2004b, 1). SPHR would similarly suggest that the administration was shutting down activism, not facilitating it (Oliveria 2004b, 1), and the York Free Speech Committee specifically noted that the administration did not want political dissent because it was "unattractive"; instead they want "mainstream dialogue" (Behmard 2004, 1). Steward's Council of CUPE 3903 would also stage a free speech rally in Vari Hall calling for a stop to reprimands of students exercising their free speech rights, gathering in public halls and political engagement on campus; they would also demand public apologies to students who were threatened with disciplinary action and wanted acknowledgement that members of the

York community could use York space for political activity (Ettedgui 2004, 1). One member of the protest would also actively use a megaphone in open defiance of the prohibition (Ettedgui 2004, 1).

Regulation of dissident political activity would also be apparent in other ways. For example, in November 1989, a table of the Arab Student Association was removed from Central Square at York University on the charge that they were distributing hate literature, that they had not booked the table through Student Affairs, and that they were a political and religious group (Phillips 1989, 7). Lazar Klein, the chair of the Israel Public Affairs Committee of the Jewish Student Federation said the literature handed out called for the destruction of the Jews, and Debbie Bromley from York's Student Affairs office said that the table had articles and books on it that student affairs did not approve of (Phillips 1989, 7). More specifically, Klein stated that registered student groups could not be a "political or religious group. Their charter says they're a cultural group." The charge was that everything on the ASA's table "dealt with the Israel-Palestinian conflict" (Phillips 1989, 7). In making this argument, Klein explicitly depoliticized the activities of the JSF, which between 1980-1989 had at least 60 advertisements regarding travel to Israel supported by Israel advocacy organizations, and at least 25 advertisements in which themed awareness weeks included political sessions regarding the state of Israel.

In determining whether campus community members can access space and for what purpose, these regulations ultimately shape the nature of resistance, but also the dissident possibilities within and for the institution itself. Moreover, the authority and power of these regulations lies in their capacity to depoliticize and desystematize the fact that there is an institutional and ideological context in which certain citizens are deemed dissident, while

others are privileged. This is particularly the case when regulations are couched in terms of security. In this way, the regulations themselves are depoliticized, allowing the institution to maintain an abstract commitment to freedom of speech and academic freedom, while at the same time recoding the basis for the regulations which is ultimately to defuse, regulate, neutralize, and diminish politics, resistance and dissidence in the name of securing the neoliberal, racialized and gendered institution.

Conclusions

In this section, I demonstrated that there are consistencies in terms of the debates around the integrity of the institution of the university and its commitment to academic freedom. Moreover, what is consistent across the study period is that these debates are by and large suspended in the larger campus community when it comes to Israel/Palestine. Here, the contentious campus politics on Israel/Palestine are treated as themselves violating the institution's integrity. Here the power of the Israel advocacy lobby in the context of larger historical trends of corporatization and militarization is submerged, and Israel/Palestine becomes a very real exception in the securitization of the institution. Consequently, pinned to Israel/Palestine, liberal principles such as academic freedom and freedom of speech, as well as the blanket application of regulations such as those governing access to institutional space, are depoliticized when they are in fact profoundly political. For citizenship scholars, this means that temporalities of citizenship cannot be tethered to abstract liberal principles.

In addition, this section has highlighted the ways in which neoliberalization, corporatization and militarization of the academy point to the deepening impact of transnational politics on the integrity of the institution, as well as on the regulation and

repression of dissidence, and resistance itself. The implication here being that these longer historical trends couch the impact of 9/11 on the regulation of dissident citizens within the academy, and signal the ways in which the regulation of citizenship is not simply domestic, hence is not uniquely linked to domestic temporalities. For example, periods of repression on York University campus seem to coincide in some ways with escalations in the Israel/Palestine conflict. But these periods of dramatic repression are not simply linear. Rather, radical expansions of dissident political space taken up by solidarity activists are in constant tension with efforts to radically contain and curtail this activism, meaning that studies of citizenship must also develop dynamic conceptions of power, and that when it comes to citizenship, space and time are intrinsically linked. Finally, this section has demonstrated that appeals to neutrality are strategic and become more appealing to Israel advocacy groups as they secure more institutional power, and as their trust of the administration grows. For citizenship scholars, appeals to neutrality may mask more than they reveal.

5.3 GOVERNING DISSENT

Mainstream Canadian citizenship scholarship has tended to focus on discourses of passive belonging, as opposed to governmental belonging, meaning that this body of scholarship has spent relatively little time considering how different strategies of belonging affect who is able to dissent, or even more broadly, the kinds of activities a citizenry is 'supposed to' be engaged in. Moreover, in focusing on belonging, Canadian citizenship scholarship has tended to focus on inclusion itself as something desirable. As articulated by Dhamoon, "The essential premise of inclusion politics is that by reorganizing and expanding existing socio-political arrangements in ways that are more hospitable and reflective of

diversity, democracy will be further legitimized” (Dhamoon 2013, 7). Dhamoon goes on to note five main reasons why inclusion, as a form of regulation, is worthy of a more “cautious” approach. Here, Dhamoon cautions against the capacity for inclusion to reproduce hegemony, the disciplinary power of the terms of inclusion, the ways in which strategies of inclusion can “mask and obscure” relationships of power that maintain inequity, how practices of inclusion can be “deployed to co-opt more radical agendas for social change and domesticate them”, and how the premise of including the excluded normalizes borders and boundaries (Dhamoon 2013, 7-8).

The presumptions around inclusion in the mainstream Canadian citizenship scholarship also reflect the observation of Sparks (1997) who notes that sustained attention to the role of dissent in democratic life is missing from participatory and democratic views of citizenship (82). This erasure is also evident in liberal theories of differentiated citizenship. Sparks defines “dissident democratic citizenship” as “...the public contestation of prevailing arrangements of power by marginalized citizens through oppositional, democratic, non-institutionalized practices that *augment or replace* institutionalized channels of democratic opposition when those channels are inadequate or unavailable.” (Sparks 1997, 83 – emphasis added).

Dissent is meaningful because it deepens our understanding of who active and self-governed citizens are, as well as how citizens coalesce and mobilize as a political community (Sparks 1997, 74). Sparks identifies six different ways people living in democratic polities can dissent or contest prevailing norms or arrangements of power: 1) using violence; 2) exiting; 3) remaining in the polity but choosing silence or inaction; 4) using formal institutionalized channels to contest the state; and, 5) using institutionalized and

marginalized channels to address the state and the wider polity (1997, 84). Sparks identifies all of these as oppositional acts, with only the last three being democratic, and the last two being dissident (Sparks 1997 84).

Universities are particular or peculiar sites in that they are marked by a tension in terms of the kinds of rights that dissident citizens claim, struggle to claim, or reject, but also the type of regulation common within these spaces. For example, Cole (2005) describes universities as spaces which are constantly evaluating themselves (16). This self-evaluation is not simply an exercise in self-reflexivity. Rather, if we think about the practices and governance of citizenship within universities, this self-evaluation, particularly within a neoliberal institution, is often coterminous with co-surveillance. Codes of conduct, campus-based newspapers, intra- and extra-institutional accrediting agencies that review the academic quality of programs and faculties, funding agencies, the peer review process for grants that review past, current and potential quality of work, on-site reviews of large centers and institutes, ad-hoc curriculum review committees, the peer review process for papers and monographs, and course evaluations are only a fraction of the ways in which peers play a governing role in the university (Cole 2005, 12). This multi-layered form of peer-governance and cosurveillance marks the university as distinctive and in some ways exceptional. As Cole writes, universities are distinct in that they are founded on the idea that professors *should* regulate their own affairs, clearly a principle at risk given the pressures of neoliberalization discussed earlier (Cole 2005, 12). Moreover, despite this commitment to collegial forms of governance, universities are profoundly hierarchical spaces.

Despite the power relations underscoring the institution, as described earlier, universities are also sites of resistance and dissidence, with York University being a

particularly notable Canadian university for its well-known history of dissident and grassroots political activity. As Hamdon and Harris write, universities are more than places of instrumental education; rather, there is a historical relationship between critical pedagogy, dissent and the university (2010, 63). In this way, members of the university community “...must always be free to dissent – to pursue and express new and even radical ideas in an environment of unfettered freedom.” (Cole 2005, 7). The freedom to disagree, explore, develop and debate are integral to a university that is based in “trust, creativity, collaboration and innovation” (Cole 2005, 7). In fact, the academy has a responsibility to be “intentional” in providing a space for this free exchange of information, analysis and engagement and in doing so ensure that universities contribute to the democratic well-being of Canada “by ensuring that contestation and dissent are not only permitted but also encouraged” (Hamdon and Harris 2010, 64). In the interest democracy as well as “intellectual excellence”, debate and dissent are essential (Findlay 2010, 7).

There is a pedagogical value here as well. As Giroux (2006) explains, it is not only academic freedom at risk with the “right-wing assault” on the academy, but the very nature of pedagogy (31). Here, at its best, pedagogy is a “political, moral, and critical practice” that plays an integral role in imagining a just and democratic world, and expanding what it means to be critical citizens (Giroux 2006, 31). Critical pedagogy as per Freire, becomes a deeply political activity and form of collective praxis; a social or political problem is named, analysed, and then addressed through political mobilization and action (Freire, 2000 as cited by Hamdon and Harris 2010, 63). In this way, Sparks writes that education must provide students with “...the knowledge and skills they need to learn how to deliberate, make judgments, and exercise choices, particularly as the latter are brought to bear on critical

activities that offer the possibility of democratic change” (Sparks 1997, 5). For the purposes here, then, pedagogy is important in that it is the “cornerstone of democracy”, teaching students how to govern and be governed (Giroux 2006, 34).

As already noted, in this respect, York is a site of deep contradictions in that far-right Zionist organizing has been common at the university since at least the early 1980s, with members of some of Canada’s leading Israel advocacy organizations been folded into the university’s main administrative and fundraising bodies, and with the university itself having a reputation of a deep association between the highest levels of university-wide governance and the state of Israel (Freeman-Maloy 2009). This is in contrast to a large population of students and faculty being committed to leftist and anarchist intellectual traditions (O’Connor 2009, 2). In this way, as Nadeau and Sears write, with the progressive neoliberalization of the university, Canadian and Israeli institutions must confront the disjuncture between their self-representation as democratic and liberal and the reality (2010, 23).

While Freeman-Maloy stresses that Israel advocacy organizations have tended to undermine Palestine solidarity activists through a strategy of direct physical disruption of events alongside formal institutional pressure, the *Excalibur* illustrates that Palestine solidarity activists are also embedded in deeply pedagogical moments where the terms of inclusion, or regulated inclusion, are taught and actively resisted. Here, York community members are political, become political and are named into the political in ways that are deeply underscored by intersecting and interacting relations of power. This section focuses on two prominent pedagogies of regulated inclusion evident across the study period: 1) the shaming and blaming of Palestine solidarity activists, and; 2) notions of ‘normal’ politics.

5.3.1 Shaming and blaming

Consistently throughout the study period, a critical way of regulating dissident citizens on York University campus is through the creation of categories or caricatures of the kinds of identities that the university can conceptually govern. Here, notions of the 'good' student, the 'good' faculty member and the 'good' York community member re/define what can and should happen in the university space. The best version of the exceptional citizen is profoundly racialized, wherein one cannot be too powerful, too political, too provocative, too participatory, and too engaged. To some degree, the privileges of Whiteness insulate dissident political actors who do possess these characteristics. These classifications are important in that the process of normalization produces distinctions between what is and what is not possible (Coronol Llamas 2006, 671).

Who is the good citizen, what is the appropriate political voice, and what should and should not be political? As already demonstrated in the previous section on securitization, across the study period, Palestine solidarity activists are redefining or making claims about what should happen in the university space. In the language of Freire, Palestine solidarity activists as dissident citizens are engaging in collective praxis and critical pedagogy. They are disrupting, interrupting and reimagining what is and what should be (Hamdon and Harris 2010, 63). In an article about Tiananmen Square and the pro-democracy movement in Yugoslavia, Cedric Vendyback writes that dissidents should not be viewed "with acrimony" (1997, 11). For Vendyback, historical traditions of student protest are rooted in a core of "moral integrity"; the essence of the university should be to welcome and encourage this diversity, "without any coercion towards a commonality of thought, opinion or creed" (1997, 11).

Consistently across the study period, this does not make for a good university citizen and the generation of these categories of exceptionality is productive, disciplinary and deeply punitive with the strategy of targeting and defaming individuals consistently present across the study period. Here, individual Palestine solidarity activists are disciplined and shamed on the basis of their political commitments. Whether they are, in theory, offered protections via student codes of conduct or commitments to academic freedom, they are disciplined outside of the protections afforded through these same mechanisms and principles. And, throughout the study period, student codes of conduct and abstract forms of academic freedom become, in fact, forms of regulation with oppressive consequences.

The first deeply pedagogical moment we encounter in the pages of the *Excalibur* involves the organized and intense mobilization against York student government member, Bipin Lakhani, in 1982. As described in Chapter 4, Lakhani was accused of using student government facilities to photocopy \$8.75 worth of literature described as hateful by campus supporters of Israel. The pages of the *Excalibur* were flooded with demands that Lakhani resign, and accusations that his "...involvement in the propaganda war [mark] him as an irresponsible member of our society" (Editorial 1982, 5). Lakhani was described as having exploited his CYSF position, as well as having endangered the reputation and accountability of the student government (Editorial 1982, 5). His treatment would catalogue almost all of the disciplinary strategies – emergency meetings and extraordinary measures¹⁷⁰, public

¹⁷⁰ For example, in implementing the sanctions against Dan Freeman-Maloy, the university departed from its own regulations and legal norms. Freeman-Maloy did not have a hearing with the University Disciplinary Tribunal before being subject to sanction (O'Connor 2009, 49).

shaming through allegations of anti-Semitism¹⁷¹, personal attacks, critique of ‘inappropriate’ political activities, distortion, and requests for resignation - that would be used in subsequent controversies with the cases of Judith Santos, which was already described in Chapter 4, Nuri Jazairi, David Noble and Dan Freeman-Maloy.

For example, in 1999, the *Excalibur* reports on the case of Nuri Jazairi, a York University professor who, when denied promotion to full professor, claimed that the denial was related to his open criticism of Israel. Jazairi claimed that an unsolicited letter written to the Faculty of Arts by another York economics professor stating that Jazairi’s academic record was weak had no basis and reflected the conflicting views on Israel/Palestine that the two professors had (Ruby 2000; Ovsey 1999, 4). In 1989, four years after his promotion was denied, Jazairi would file a complaint with the Ontario Human Rights Commission which found that there were procedural irregularities in the hiring process, but there was no basis under the human rights code for complaints alleging discrimination on the grounds of political beliefs (Ovsey 1999, 4). Jazairi would go on to deliver a petition to the United Nations Human Rights Committee, claiming that Canada was not living up to its obligations to the International Covenant on Civil and Political Rights by not enacting domestic

¹⁷¹ In the latter period, allegations of anti-Semitism in the form of public shaming is particularly heightened. For example, B’nai Brith Canada took a full-page ad out in the *National Post* with the headline, “Stop the Hate Fests on Canadian University Campuses”. The ad called on all members of the university community to stop Israeli Apartheid Week and the “...ongoing anti-Jewish agitation that has taken root on campuses across the country” (as cited in Stewart 2010, 52). Another full page ad was taken out in the *National Post* in June 2009. This time entitled “York University Report Card”, the ad gave York University a failing grade for “ensuring a welcoming and secure environment for all students, providing balanced intellectual academic debate, preventing anti-Israel agitators from spewing hatred,” and “ensuring Jewish students are not marginalized and intimidated” (as cited in Stewart 2010, 53). A final ad was taken out in September 2009, titled “Back to School Checklist for Jewish students and friends of Israel” (Nadeau and Sears 2010, 14). The checklist advised Jewish students to prepare to face hate on campus, to expect to be harassed for wearing the Star of David or a kippah, and to expect that “radical students” would stage rallies and call for the “destruction of the State of Israel” (Nadeau and Sears 2010, 14).

legislation which protects Canadians from discrimination on the basis of political opinion or beliefs (Szekely 2000, 3).¹⁷²

As explained earlier, Dan Freeman-Maloy, a Jewish student and Palestine solidarity activist was “rusticated” or not permitted to re-register at York University for three calendar years and was banned from university premises (O’Connor 2009, 48). He was charged with the use of an unauthorized sound amplification device - a megaphone - as per the *Temporary Use of Space Policy* and the *Policy for Use of Vari Hall Rotunda* (O’Connor 2009, 49).

Finally, in the case of David Noble, after distributing a flyer which argued that pro-Israel interests dominated the leadership of the York University Foundation, the university’s fundraising body, Noble a politically outspoken York professor was subject to a well-organized and vicious campaign accusing him of anti-Semitism. The day after the flyer was distributed, without contacting Noble, the university would release a statement by the president condemning the material as “highly offensive” and “[singling] out certain members of the York community on the basis of their ethnicity and alleged political views” (Palter 2004a, 1).¹⁷³ The Canadian Jewish Congress would denounce Noble for spreading anti-Semitic material, to which Noble replied that “...these kinds of scurrilous attacks...[trivialize]

¹⁷² See Nuri Jazairi v. Canada, 2004. Accessed April 30, 2016. <http://www1.umn.edu/humanrts/undocs/html/958-2000.html>. In another case, Shinder reports that York Professor Arnold Itwaru had hired two lawyers to determine whether the Sociology Department’s Appointments Committee had slandered him when they decided not to offer him one of 2 tenure-track positions in the department (Shinder 1988, 3). In a letter to the editor, Jerry Khouri noted that Professor Itwaru spoke at a university forum explaining how the term liberation was misunderstood and misrepresented. Khouri specified that Itwaru had not mentioned the Palestinians or the PLO during his talk, but went on to write: “Prof. Itwaru has the full right to support the Palestinian people and their goal for self-determination. Why is it that those who support the rights of the Palestinians must be silenced and condemned? There are a panoply of professors at York University who support Israel blindly and condone its terror....” (Khouri 1988, 5).

¹⁷³ Then York President Lorna Marsden issued a statement regarding Noble which read: “York strongly condemns this highly offensive material, which singles out certain members of the York community on the basis of their ethnicity and alleged political views, including philanthropic volunteers who serve on the board of the York University Foundation” (Alphonso 2004, A13).

anti-Semitism” (Canadian Press 2004). As Stewart describes, the campaign against Noble specifically focused on shifting attention away from the content of his argument, making even the idea that there might be a pro-Israel lobby “unmentionable” (Stewart 2010, 51). In November 2007, a labour arbitrator would rule that that the university had violated Noble’s academic freedom, that it must withdraw the press release from its website and pay Noble \$2500 in damages (Brown 2007, A08).¹⁷⁴

In each of these cases, these variably ‘dissident’ citizens are treated as examples and cautionary tales, and faced with disciplinary lessons about the cost of their politics. As Cole observes in an international context, attacks on academics critical of Israel tend to follow a consistent and clear pattern (2005, 7). Professors are targeted and isolated, coverage in the media widens the scope of the shaming, the coverage itself distorts and/or diminishes the substantive analysis at issue, alumni and politicians are encouraged to contact the institution, demand a sanction, and threaten to pull funding (Cole 2005, 7).

For example, in the case of Noble, Sean Palter would write for the *Excalibur* that Noble was highlighting the “Jewish” connection to the York University Foundation in his flyer (Palter 2004a, 1). Aliza Libman would further recode Noble’s political stance in her editorial claiming that Noble’s objection was simply that members of York’s fundraising body had political positions different than his (Libman 2004, 7). In an act of radical inversion, Noble’s position becomes discriminatory; *he* is discriminating against “sincere, hard-working capable [individuals] who [do] good work on behalf of the university (Libman 2004, 7). These are not strong corporate individuals with power on the Board of Governors. They are

¹⁷⁴ Jim Turk, then executive director of the Canadian Association of University Teachers described the ruling as a landmark win for professors across Canada (Brown 2007, A08).

threatened by people like Noble who “cultivate a culture of fear” and defy the foundation of the university which is “discourse, not discrimination” (Libman 2004, 7). In this way, Lakhani, Santos, Noble and Freeman-Maloy cannot easily access the status of ‘victim’, oppressed, because they are labeled as crazy, or troublemakers; they, in a sense, are not even seen as political dissidents.

Second, while the particular nature and intensity of the racialized context does seem to shift after 9/11, what remains consistent is that those members of the campus community who are deemed dissident may be subject to eviction – temporary or otherwise – if their presence proves to be disruptive, distracting or dangerous. For Santos it is the threat of not being re-elected, for Lakhani, the threat of being asked to resign or being impeached, and for Noble and Freeman-Maloy, the threat of the full-fledged eviction from campus. Moreover, Santos, Lakhani, Noble and Freeman-Maloy are all threatened with being evicted from the academy and hence the realm of the political when it comes to political debate and discussion. While targeted for their dissident politics, the strategies used to displace and disempower these citizens rely specifically on denying them the status of political dissident, be this through their securitization, or discourses which ridicule and diminish their politics. In this sense, dissident citizens function within a constant state of uncertainty or in/security, an uncertainty that can become particularly heightened when accompanied by governmental or administrative action that is recoded as neutrality through the process of securitization.¹⁷⁵

¹⁷⁵ Of note here is that this kind of strategic shaming is not limited to those engaged in the politics of Israel/Palestine. As the *Excalibur* demonstrates, a politics of shaming often targets those on the left-end of the political spectrum. For example, in one letter to the editor, John Tilley objects to the York Action Coalition’s interruption of a Board of Governor’s meeting in protest of tuition increases. Tilley scolds the protesters for

The narrative is clear as to who the 'good', 'at-risk' students are and who are not. In a February 2003 article, Dube reports that Ontario's Chief Justice said that violent protests at university campuses like Concordia are "a severe interference with the rights and dignity of many students" (Dube 2003, A09). Speaking at a conference on anti-Semitism at the University of Toronto, Chief Justice Roy McMurtry stated that "A university campus should be able to be enjoyed by students without being subjected to what can be a form of harassment." (Dube 2003, A09). In a *National Post* piece by Barbara Kay, Palestine solidarity activists are referred to as "far-left professors, using their classrooms as anti-Israel indoctrination mills"; campuses are sites of "growing intimidation of Jewish students defending Israel", where Jewish students are "routinely swarmed and physically threatened by mobs of anti-Semitic activists", who are "hate merchants" who do not represent "ordinary students" (2007, A22). Palestine solidarity activists are "full-time ideological missionaries who colonize students unions to further their toxic cause" (Kay 2007, A22). In contrast, "Jewish students" exhibit "earnest goodwill in accommodating the 'opinions' of others", they are "civil" and show "appropriate responses", they show "canniness and courage at York University in pushing back against intimidation" against a "pack of wolves" (Kay 2007, A22).

While there are broad strokes of consistency across the study period, and across these cases, there are also some notable differences. Where in the early period, the disciplinary authority was accomplished primarily through peer-governance or cosurveillance, in the latter period, the University administration would take an active role in implementing these

lacking "decency", referring to them as "communist terrorists" who have acted "like a bunch of savages", "[tarnishing] the name of our wonderful university", employing "unremitting community bully tactics", lacking maturity, and intimidating the Board of Governor members as well as the University president (Tilley 1998, 12-13). These protesters are a threat because they show "contempt for democratic procedures" (Tilley 1998, 12-13).

modes of regulation. This would broaden to include the imposition of fines, disciplinary warnings, threats regarding the revocation of funding or student group status, the imposition of security costs, the cancelling of room bookings, as well as the targeting of student government. Moreover, while across the entire study period, Israel advocacy organizations are clearly focused on claiming political space within York University, the way in which pressure is exerted on the administration and by whom appears to shift after 2003. Behind the scenes pressure is increasingly accompanied by efforts to overtly and publicly shame the institution and/or individuals who are supportive of Palestinian human rights, and this public pressure is increasingly carried out by non-student supporters of Israel or more specifically, Israel advocacy organizations. This change may be indicative of an increasing desperation on the part of Israel advocacy organizations as BDS and the apartheid analysis begin to take hold, as Palestine solidarity deepens and as the movement in support of Palestinian human rights begins to include increasing number of individuals who self-identify as Jews.

5.3.2 'Normal' politics

Palestine solidarity activists actively claim political space precisely on the basis of their support for the rights of Palestinians, as well as through a politics based on resisting imperialism and occupation. Yet, throughout the 30 year time period covered, there are consistent attempts made to regulate their capacity to dissent and the legitimacy of their dissent through the definition of what constitutes normal politics. Most broadly, the politics of Israel-Palestine are framed as outside normal politics; they are exceptional. This plays out in a few different ways.

First, throughout the study period, the politics of Israel/Palestine are characterized as exceptional, meaning that they may require extraordinary measures and intervention. For example, in the case of Bipin Lakhani, David Noble and Dan Freeman-Maloy, all are disciplined in ways that depart from established or standard procedures. Or, in his review of the Mapping Conference, former Chief Justice Frank Iacobucci identified the conference as “odd and extraordinary in its nature”, inferring that there should be two sets of criteria governing conferences; criteria for ‘normal’ conferences and criteria for those like the Mapping conference (Masri 2011, 110). From the outset, the terms of reference for the Iacobucci report were troubling, focusing almost exclusively on how conferences “of this type” were planned, organized and delivered (Iacobucci 2010, 2). The terms asked Iacobucci to consider the responsibilities of faculty members and university administrators and provide advice on “best practices for the successful planning and execution of *such events*” (Iacobucci 2010, 2 – emphasis added). Notably, academic freedom was not listed as part of the mandate. In addition, like the York Task Force on Student Life, Learning and Community, the Iacobucci report focused on the responsibilities associated with the exercise of academic freedom as opposed to emphasizing the protection of academic freedom (Stewart 2010, 56).

Second, throughout the study period, the legitimacy of Palestine solidarity activists is challenged through notions of normal politics which focus on atmosphere and environment on York University campus. For example, as early as November 1982, students decry that the environment of York University is under threat specifically from the politics of Israel/Palestine. One student criticizes the “cold atmosphere” at the university where “cultural and religious groups” at York are “hostile” with each other over “abstract ideals” (Bowman 1982, 5). The university at risk is one that is a “...place to share ideas and to learn

from one another - building upon the knowledge one already has" (Bowman 1982, 5). Where York was once a "unique" institution that "stood at the forefront of liberal thinking and open-mindedness":

Accusing posters dot the walls and bulletin boards, one-sided, hate-filled films are shown in public gatherings, with the intent of 'hurting' passersby....The school newspaper is filled with arguments, counter-arguments, and counter-counter-arguments of heated prejudice. Public spokespeople and leaders in the York community have been harassed with immature and ignorant threat letters, and the Student's Council justifies the rights of those who express their opinions through hate-oriented propaganda!" (Bowman 1982, 5).

Bowman would call for a return to York's motto by "trying the path: Sharing rather than Hating" (1982, 5).

Bowman's comments would be echoed in the post-9/11 period. For example, in one editorial, Jennifer Richard laments on the frequency of public displays on Israel/Palestine on York campus (Richards 2003, 7). For Richard, this frequency is problematic, along with the accompanying protests and the media attention given to them (Richard 2003, 7). Richards blames the administration, asking: "Are we known for nothing else? We should be known for our numerous published authors, our inventive teaching, for our large international student base and even our sports teams. Instead we are known to the community at large as the university where protesting could be another credit course." (Richards 2003, 7).

In a piece by Daniel Held, Held advances what seems to be a strong endorsement of academic freedom and freedom of speech:

The tools of the university are not fists and megaphones, they are pens and podiums....Listening, questioning, and learning are, however, the pillars that make York and other universities the academy of learning. It is only in the university, the bastion of academic inquiry and freedom of speech, that one is able to encounter dissenting views in an open environment, to question and challenge and thereby learn...Universities have an obligation to empower students with

opportunities to learn from a plurality of views...Universities should not be, and cannot be, about violence.” (Held 2004, 11).

It is the final word, ‘violence’ which serves as a disclaimer. The threat for Held is not simply “fists” and “violence”, by “pro-Palestinian protesters” who are characterized as uniquely adopting violence and “fear mongering”; “pro-Palestine protesters” have “...corrupted their cause and desecrated the sanctity of a house of learning” (Held 2004, 11).

Here, the York community members to be protected are those students who are “indifferent to politics”; they are to be protected from the “discomfort and intimidation” caused by freedom of expression on Israel/Palestine (Manavipour 2004, 9). Elana Anzel-Sivkin writes to the *Excalibur* as someone who stands on the sidelines and is “...intimidated by the big bullies on campus. I am the little kid on the sidelines, acting as the spectator, imagining myself building up the courage to step in the crossfire and create some peace.” (Anzel-Sivkin 2006, 4). Speaking in reference to the repression of protesters in Vari Hall in January 2005, Hauser describes protesters as being the threat - they are “belligerent”, “loud”, a “crowd of screaming fanatics”, and they inconvenience thousands of others (Hauser 2005, 9).

This strategic preference for the supposedly ‘apolitical’ surfaces in the politics of student government, particularly in the post-9/11 period with the election of the Progress Not Politics slate to the YFS in 2004. For example, reporting on a political flyer in the lead-up to the 2005 YFS elections from the “Student Coalition to Save York”, Francoise Villeneuve writes that since the Progress not Politics (PNP) slate was elected, York had enjoyed a more quiet university without “dangerous politicized riots” (Villeneuve 2004, 8). In the 2005 election, the “Crack the Clique” slate, linked to the aforementioned PNP, was being challenged by the Unity slate, reflective of the slate of progressive candidates the PNP had

unseated. The flyer cautioned that should the Unity slate be elected, York would become a “POLITICAL PROTEST WAR ZONE” (Villeneuve 2004, 8 - emphasis in original).

Yet the disjuncture here is that those decrying the political nature of the support for Palestinians erase their own political positioning. Put differently, only some members of York community are allowed to be political. The Progress Not Politics slate was organized by Young Zionist Partnership members Paul Cooper and Yaakov Roth, with the support of Josh Cooper, then managing director of CIJA-PAC, and Talia Klein, then director of Hillel at York. The slate also received support from the Conservative Party of Canada (Newstadt 2008, 101). Yet, despite representing themselves as apolitical or simply “cultural” across the study period, Hillel *is* a key Israel advocacy organization at most Canadian universities and it is explicitly Zionist (Saifer 2009, 80). Part of the mission of Hillel is to recruit students for free propaganda trips to Israel (e.g. Taglit-Birthright Israel), foster personal attachments to Israel, and provide detailed resources on Israel advocacy (Saifer 2009, 30). This is explicitly political but is not characterized as such, a phenomenon deeply linked to the anthropomorphization of the state of Israel.

In response to the PNP’s initial win, the CIJA praised the unseating of the “pro-Palestinian student government” and identified itself as helping to empower Jewish students to get involved in politics at York (Noble 2005). In addition, the Millennium Leadership Fund (MLF), a project founded in 2000 with donations from the Ontario Progressive Conservatives helped to fund candidates in the PNP slate (O’Connor and Stacey 2012). The goals of the MLF are to “defray costs for conservative university students in their bids for election” to student government (O’Connor and Stacey 2012). In addition, the PNP slate pledged to focus their attention away from international events and to focus on local issues like campus security,

parking and public transit (yFile 2003). Upon winning, the PNP would hire Ryan O'Connor, vice-president of the Ontario Progressive Conservative Campus Association, and cut funding to "speciality groups" including the Black Students' Association, Aboriginal Students' Association and Trans, Bisexual, Lesbian, and Gay Allies at York (O'Connor and Stacey 2012). The PNP also eliminated the equity and services executive position of the YFS, "organized pro-war campus events, endorsed the Conservatives 'income-contingent loan repayment' strategy, and postponed elections for two semesters" (O'Connor and Stacey 2012).

The main point here is that over the course of the study period, the bounds of what is considered legitimate or 'normal' politics are strictly enforced, with Palestine solidarity activists consistently positioned at or beyond the margins. In the post-9/11 period, the shaping of the bounds of acceptable political discourse through the strategic appeal to the 'apolitical' would become a significant strategy on the part of Israel advocacy groups, having regulatory consequences for Palestine solidarity activists as dissident citizens. Within this context, even the defence of Palestine solidarity activists by non-affiliated campus-members would be tepid. For example, in one 2008 opinion piece, Mike Anderson defended demonstrations by suggesting that they represent a "healthy internal debate" and offer "great opportunities" to educate others (Anderson 2008, 24). However, he cautioned that protests can go too far, citing demonstrations that use sound amplification devices in classroom buildings during class hours as crossing a threshold (Anderson 2008, 24).

In addition then to strategies of shaming and blaming, often couched within allegations of anti-Semitism, one of the most consistent ways in which the margins of 'normal' politics are enforced and Palestine solidarity activists have been policed on York University campus has been through the strategic deployment of profoundly racialized

standards of civility with respect to academic freedom and freedom of speech on campus. The overtly strategic nature of this engagement with liberal principles on the part of Israel advocacy organizations is captured in a 2002 *Excalibur* article. Greenberg and Libman report on a conference in Philadelphia on media coverage on anti-Semitism and the Israel/Palestine conflict (2002, 3). The conference held for 35 North American student journalists featured a general assembly called “Do the Write Thing”, organized by Hagshama, the university student’s division of the World Zionist Organization (Greenberg and Libman 2002, 3). One attendee of the conference would describe the overall message of the conference as follows: “Nowadays people, especially on campus, are extremely liberal....if we really want to reach out to these liberals on campus we need to focus on things that are universally held ideals...” including democracy, women’s rights and freedom (Greenberg and Libman 2002, 3).

The strategic use of liberal language and liberal principles is not, however, linked specifically to September 11, 2001. As Stewart notes, historically, civility, balance and respect have been “critical watchwords” in the United States for neoconservatives concerned with policing academic speech and dissent (2010, 54). For example, David Horowitz’s Freedom Centre aims to take back the universities from “radicals”, and promote academic freedom for conservative students because of their status as stigmatized minorities (Stewart 2010, 54). Horowitz’s group, ‘Students for Academic Freedom’, promoted an Academic Bill of Rights which would legally enshrine that faculty be obligated to provide “balanced” viewpoints in university teaching (Stewart 2010, 54).

Tracing this history even further, Giroux (2006) describes the infamous Powell Memo, released in August 23 1971, as a “political blueprint” for the current assault on dissent

within the academy. Future U.S. Supreme Court Justice, Lewis F. Powell, was concerned about the dearth of conservatives in social science faculties (Giroux 2006, 5). Powell urged fellow neoconservatives to use academic freedom strategically in order to counter dissent and “...to develop a material and ideological infrastructure with the capability to transform American public consciousness through conservative pedagogical commitment to reproduce the knowledge, values, and social relations of the corporate state” (Giroux 2006, 5). Power further argued that basic concepts such as “balance, fairness and truth” could be used to counter dissent (Giroux, 2006, 5). For Powell, a new generation of conservative scholars could shape the direction of public policy, pedagogy, and media (Giroux 2006, 5).

Racialized appeals to civility would be particularly prominent in the post-9/11 period.¹⁷⁶ For example, in a 2005 article entitled “Keeping disobedience civil”, Lochshin would outline the parameters of acceptable dissident political activity, suggesting that groups at York had an “immature understanding” of civil disobedience (Lochshin 2005, 8). Focusing in on the activities of GRAIN, Lochshin would argue that if activities knowingly and purposefully break the law, they should have the “courage to accept the consequences” (Lochshin 2005, 8). Put differently, for GRAIN to show “maturity and integrity”, they would have to accept their punishment for choosing to protest in Vari Hall (Lochshin 2005, 8).

Appeals to civility are also inextricably linked to allegations of the new anti-Semitism. For example, in a *Vancouver Sun* editorial by Barbara Yaffe regarding the David Noble controversy, Yaffe refers to an article by Howard Stein (UBC professor of medicine) and Noemi Gal-Or (political scientist at Surrey’s Kwantlen University College) which “[lets] the

¹⁷⁶ For an extended discussion of the policing of academic freedom through discourses of civility, see Steven Salaita, 2015, *Uncivil Rites: Palestine and the Limits of Academic Freedom*, Haymarket Books.

rest of us in on a dirty little secret about university campuses in the province – they’ve become places of fear and intimidation, rife with anti-semitism” (2004, A23). In the article, Stein and Gal-Or report that 158 professors and staff at eight British Columbia campuses have come together to form the B.C. Campus Action Coalition whose aim is “to promote mutual respect and understanding as well as coexistence and peace, while discouraging polarization, belligerence and hatred in matters related to the Middle East.” (Yaffe 2004, A23).

The basic premise of Stein and Gal-Or’s piece is that while “...both sides – pro-Palestinian and pro-Israeli – have often advanced essentially skewed arguments”, Palestine solidarity activists have “exceeded the bounds of civilized debate” (Stein and Gal-or 2004, 47). The strategies employed by these activists include intimidation, harassment, physical violence, verbal assaults, hate speech, threats, and vandalism (Stein and Gal-Or 2004, 45). The prescriptions advanced by Stein and Gal-Or include the presence of security and independent observers at “controversial” events; a requirement that academic clubs host events where divergent views are present in order to prevent the groups from being “politicized and taken over by an interest group”; mandatory punishments for students who breach codes of conduct; unified denunciations by the university, including student governments, newspapers, faculty, unions, administration, senate, board of directors, and alumni, of students breaching the code of conduct, and; student governments must allot facilities and space equitably to all students groups, “whether the groups are white supremacists, fascists, anarchists, pro-lifers or believers that the world is flat” (Stein and Gal-Or 2004, 45).

As forms of regulated inclusion, there are a number of reasons why the strategic appeal to principles such as balance, civility, truth and dialogue are powerful, yet troubling when it comes to dissident citizens. As Cole writes, balance is exceedingly problematic in that it can be manipulated by those who are external to research or a project; here, the research is divorced from an academic exercise and the context of discussions (Masri 2011, 17). Moreover, the appeal to balance is based on what Saifer terms the “middle ground fallacy”; here it is assumed that two opposing positions in a dispute are wrong and that the middle position is necessarily correct (Saifer 2009, 81). Adding to this, the particular strategy of regulated inclusion is intimately linked to the previous discussion of the way in which advocates for the state of Israel present their arguments in defence of the occupation in familiar, left-liberal discourse by emphasizing values such as human rights, equality and self-determination, “...in the service of an essentially *illiberal* enterprise: namely the criminalization of political criticism and the defence of a state (Israel) against an oppressed people (the Palestinians).” (Cairns and Ferguson 2011, 418).

If amorphous standards of civility are not met by Palestine solidarity activists or dissident citizens, a narrowing of the political space occurs, and dissident political behaviour is securitized as risky, dangerous, and/or illiberal, at the same time that the political analysis is diminished, and rendered incidental to what is deemed truly important. In addition, this strategy of regulated inclusion which displaces and submerges the political content of the analyses of Palestine solidarity activists is closely linked to the abstraction of academic freedom discussed earlier. With Israel removed as the target of criticism, the focus of the discussion is relocated to abstract, context-free discussion of academic freedom or the process of talking about Palestine, where the “...illegal Israeli occupation, military repression

and the very real physical and psychological sufferings of the Palestinian people disappear” (Rose and Rose 2008, 13).

This narrowing is vividly illustrated in the aforementioned discussion of the regulation of the Mapping conference. For example, Carleton University Professor Peter Emberley commented on anti-Semitism and the Mapping conference, lamenting the university as both an *universitas*, or association pursuing common interests, and a *civitas*, an association committed and bound to civility, tolerance, free speech and freedom with responsibility (Martinuk 2009, A16). Or, in November 2001, Liao writes about an attempt by the JSF to close down a York campus newspaper because of its “anti-Israel stance” (Liao 2001, 1). *The Atkinsonian* had run a news brief that criticized Israel’s treatment of the Palestinians, and had also featured a large report on the 2001 World Conference on Racism in Durban South Africa (Liao 2001, 1). The JSF claimed that the report was “lopsided and pro-Palestinian”, and after meeting with the paper to discuss concerns, in the following issue, the paper ran rebuttals from concerned Jewish students which were roughly equivalent in size to the original content (Liao 2001, 1).

The appeal to balance would also be apparent at a 2002 CUPE 3903 rally. At a rally organized by CUPE 3903’s Anti-Racism Working Group to spread awareness about Canada’s new anti-terrorist legislation, two members of the JSF attending the rally criticized the fact that speakers at the rally referred to Israeli political leaders as perpetrators of state terrorism (Richards and Braz 2002, 1). The JSF members went on to say that “If you have a rally...present *both sides of the story...get the story right*” (Richards and Braz 2002, 1 – emphasis added). Or, in one article in the *Excalibur*, Steve Birek wrote regarding the politics of Israel and Palestine on campus. Identifying himself as a supporter of Israel who refused

to join the IDF, Birek issued as a disclaimer that he often “applauded the intelligent debate common at York”, a debate that has been “replaced by fear and distrust” (Birek 2008, 8). Birek described York as “chaos and disorder”, and as slipping into the “mindset and mentality of warfare” (Birek 2008, 8). Birek would plead with York community members to redirect their passions away from “the chaos of disorderly rallies and into the civilized realm of the debating hall” (Birek 2008, 8).

Related to calls for civility and balance is the strategic use of dialogue and/or peace initiatives to defuse and suppress Palestine solidarity activism, a strategy present across the study period, but one that emerges most clearly after 2004. As Saifer (2009) describes, the strategic resort to dialogue has been one of the central pillars of Israel advocacy because the language “...appeals to proponents of liberal multiculturalism; it avoids confrontation, eschews anger and emotion in favour of ‘civil discourse,’ and addresses personal narratives rather than systemic relations of power” (74). With the formation of the National Jewish Campus Life, a changed occurred on university campuses around 2002-2003, with Concordia University’s Hillel organizing on-campus recruitment for the IDF one year, and in the following year, organizing ‘Coexistence Day’ (Saifer 2009, 81).

This would have an impact on York University campus. In 2004, Oliveria would report on a new student group at York called, “Shalom-Salam” (Oliveria 2004c, 1). Forming out of a 3rd year political science class called “War and Peace in the Middle East”, the purpose of the group was described as “[bringing] peaceful dialogue between opposing groups”, with a mandate to “...create an alternative forum between groups and students at York with different views on the Israeli-Palestinian conflict” (Oliveria 2004c, 1). A member of the group described Shalom-Salam as bringing “opposing groups together in a forum where

dialogue can [occur] in a civilized manner” (Oliveria 2004c, 1). This would be followed shortly thereafter by an Israel fest that would depart from the previous year’s controversy having hosted Daniel Pipes, to being an apparent celebration of Israel “...as a source of religious inspiration, national pride, and hope for peace between nations locked in a bitter dispute” (Libman 2004, 9). In a 2004 LTE, Guberman would also appeal to peace and dialogue, arguing that “Only through peaceful and mutually respectful dialogue and empathy can we ever hope to reach a final agreement and have peace” (Guberman 2004, 7). Also in 2004, the *Excalibur* would provide its first profile of Hillel@York’s third annual “Peace by Piece” event (Ononiwu 2004, 3). Shalom-Salam would laud the event which focused on celebrating and remembering peace treaties in the Middle East (Ononiwu 2004, 3).

This kind of approach would be replicated on other university campuses. For example, in 2009, the McMaster Peace Initiative was introduced, with signatories pledging to keep debate on campus “balanced and informed”, focused on “common interests” and “respectful” (Hemsworth 2009, A07). Erasing the content of the struggle for Palestinian human rights, the McMaster President of ‘Israel on Campus’ was a signatory to the document, stating: “This is not a conflict of Palestinians and Israelis...It’s a conflict of extremists versus moderates. The more effort that moderates make to strengthen the relationship, the better of we will be and the more we will be able to achieve in the name of peace.”(Hemsworth 2009, A07). As Saifer suggests, the McMaster Peace Initiative was ultimately about “finding a balance in an inherently unbalanced situation” (Saifer 2009, 10).¹⁷⁷

¹⁷⁷ The strategic appeal to peace and dialogue would also surface in the promotion of a turn-based strategy video game called *PeaceMaker*. Selga (2007) reports that in 2007, along with United Jewish Appeal, Hillel@York held an ‘awareness raising’ event at Vari Hall called “Can you be a Peacemaker” at which the video game was promoted. *PeaceMaker* was started by a company called Impact Games and is based on “real events” – effectively turning the occupation and the repression of Palestinians into a game. The Peres Centre for Peace distributed 100,000 free copies of the game (3).

Here, dialogue and peace-based initiatives are heralded as a new approach to an old debate, and a commitment to dialogue and peace is used to distract from the occupation and racism on campus. Yet, this stress on peace and dialogue as a deflectionary strategy was far from new¹⁷⁸. For example, in 1988, the JSF holds, an “Arab-Jew Dialogue”, asking whether “Arabs and Jews [can] live together in peace in Israel” (Advertisement 1988, 19). Three years later, Masri calls on the JSF and the YASA to arrange for “...future dialogue and debates on equal terms in order to help find peaceful solutions” (Masri 1991, 5). That same year, Students for Peace Now, an Israel Peace Movement would call for participation from “Progressive Zionist” students to discuss the implications of the Gulf War on Israel (Advertisement 1991, 7), and LTEs such as Jason Leizer and Philip Shoore from the Progressive Zionist Caucus would stress the “back-and forth mud slinging” as the root of the problem with the discussion at York (Leizer and Shoore 1992, 7). For Leizer and Shoore, the issue is a “never ending cycle of a war with words”; now is the time to “stop laying blame” given that Jews and Arabs “share the responsibility for violence against each other”. Now is the time to discuss peace, and “organize a network of Arab-Jewish dialogue where we could begin to understand each other” (Leizer and Shoore 1992, 7). Also in 1991, the JSF would defend the racism of visiting speaker Dan Scheuftan, describing his “generalizations...that Arabs are violent” as being a “momentary [problem], one that they are very sensitive to, and

¹⁷⁸ Saifer also notes that dialogue initiatives emerge after increased periods of successful Palestine solidarity activity which tend to be linked to worsening conditions in Palestine; this pattern was confirmed across the study period (2009, 75) with campus-based peace initiatives such as Coexistence Day and Salaam/Shalom cropping up around the 1991 Madrid Conference, the 1993 Oslo Accords and the 2006 Israeli invasion of Lebanon.

that they are committed to having a “peaceful, respectful dialogue” with the YASA (Borch 1991, 1).¹⁷⁹

Particularly in the context of unequal power relations, there are a number of presumptions embedded in this strategic appeal to dialogue.¹⁸⁰ First, that it is possible to assemble an apolitical forum, bringing together two ‘ethnic’ and ‘religious’ sides of the conflict, in a situation where ‘narratives’ can be shared (Saifer 2009, 74). Saifer terms this strategic approach the Jewish-Arab/Muslim dialogue framework of JAMD (Saifer 2009, 74). Here, the assumption is that the Israel/Palestine conflict is about two relatively equal powers seeking reconciliation, and doing so by putting aside their emotions and engaging in a rational exchange (Nadeau and Sears 2010, 17). For example, in a 1982 LTE, Arad writes regarding the antagonism between the JDL and Palestine solidarity activists, stating that “Neither side is clean of aggressive acts... (Arad 1982, 5). Verheggen would echo this almost 20 years later in his article: “This is not a Hollywood movie. There is no simple ‘good’ and ‘bad’ side to this conflict. Both sides commit atrocities, mainly against innocent people, and mainly because of ideological reasons” (Verheggen 2002, 7). In her LTE, Maidens adopts a resolutely acontextual approach, stressing that “We are all members of the human race”, and that we must “...all take responsibility and accept that all these acts of hatred were

¹⁷⁹ For example, in commentating on the banning of the IAW posters in 2008 and 2009, Hillel Ottawa’s Israel Awareness Committee expressed support for the University of Ottawa’s decision to ban the posters suggesting that the posters would lead to “threats, harassment and intimidation on campus”, and had no value because they did not promote “real dialogue” (Godmere 2009, 4).

¹⁸⁰ For an extended discussion of the limitations of dialogue, see Saffari 2012. Saffari describes that the dialogue thesis emerged in the latter half of the 1990s and is a “...a form of (Habermasian) deliberation that seeks ‘communicative rationality’ in order to address the problem of global conflict.” (249). Saffari identifies three expressions of dialogue as deliberation: inter-state, inter-faith, and inter-civilizational (249) but notes that all three forms reflect elite-level deliberation (251). Saffari goes on to note that “...in an analytical framework that views conflict as a product of the prevailing relations of domination and subordination, such dialogical solutions might seem less pertinent, unless we reduce all existing and historical patterns of expansionism, domination, and oppression to expressions of fear of religious and/or cultural/civilizational diversity.” (2012, 251).

committed by human beings against human beings. If we view these issues as such, and look at each other with some sort of unity and respect, perhaps we could get beyond race, religion, gender, and sexual preference” (Maidens 1992, 4). Here, all Arab, Muslim and Jewish thought is characterized as fitting within a static binary, and political positions are linked to identity, not personal values or a critical political stance (Saifer 2009, 76). In this way, the grounding of Palestine solidarity activists in a concern for social justice becomes reduced to “ethnic, religious or national allegiance” (Saifer 2009, 76).

The end-game for those strategically deploying civility, balance, peace and dialogue initiatives is to restrict the political potency of those criticizing the state of Israel. As Saifer notes, however, the goal of Palestine solidarity activists is to end the occupation. Dialogue is a strategic form of governance in that it displaces this goal, recoding the struggle as one of “greater tolerance” and civility (Saifer 2009, 78). Civility, respect, balance and tolerance are particularly appealing within the liberal multicultural script¹⁸¹, and in addition to articles and letters in the *Excalibur*, these commitments find voice in the university’s Presidential Task Force on Student Life, Learning & Community and in the inquiry undertaken by retired Supreme Court of Canada judge, Frank Iacobucci. The former stressed the importance of dialogue and reasoned debate and the latter, failing to contextualize the regulation of academic freedom and scholarship on the Middle East as one where scholars are routinely silenced when they are critical of the state of Israel, and emphasised “professional

¹⁸¹ These words may also hold extra appeal given the politically contradictory nature of York University. As Freeman-Maloy (2009) notes, York is characterized as left-leaning or progressive in terms of its social science departments, although this is set within the reality that universities are institutions built upon profound, diverse and interacting hierarchies (Freeman-Maloy 2009). In the case of Israel-Palestine, you see institutional and structural support from Israel advocacy organizations, vibrant activism supporting Palestinian human rights and anti-oppressive politics, and active and organized resistance to this activism on the part of Israel advocacy organizations, affiliated student groups and the university’s administration.

responsibility”, “civil discourse” and “respect”. As Stewart reminds us, civility and respect are deeply subjective, taking us far beyond the norms in terms of how scholarship is and should be assessed in a peer review process (Stewart 2010, 54). Moreover, the appeal to civility, balance, peace and dialogue never addresses “...the substance of the debate itself, as if debate can be extracted from its immediate political context” (Stewart 2010, 54). When dialogue “...becomes a means by which to adapt to an unjust situation rather than to change it”, this form of governance significantly circumscribes the political scope for dissident citizens (Saifer 2009, 78).

In sum, the power of the discourse on dialogue or peace-based initiatives is insidious and speaks to the perils of regulated inclusion and the difficulties for using inclusion as a measure for progress. We should be troubled when inclusion becomes the standard or the measure against which the choice to not be involved is labeled as something subversive and antagonistic. When this becomes the case, the political realm and the political repertoire of non-normative, dissident non/citizens narrows significantly, particularly when accompanied by the threat of disciplinary or sovereign power. Moreover, when this becomes the case, the discursive move that concretizes the authority of the borders to be included into, does so by rendering all things associated with that space, neutral and apolitical, despite the fact that the commission is a technology of a distinctive strategy of governance. Liberal theory does not have the capacity to think through the politics of refusal and how that impacts time.

5.4 CONCLUSIONS

In Chapter 4 and Chapter 5, this case study has examined the citizenship discourses and practices governing and regulating Palestine solidarity activists on York University

campus. At the outset, I recounted the ways in which the post-9/11 period has seemingly been an exceptional one in terms of vigorous and well-organized attempts to regulate and curtail the dissident political activity of Palestine solidarity activists both on and off York University campus. In addition, the post-9/11 period has also seemingly been one in which mobilization for Palestinian human rights has been particularly intense. Was this backlash and this mobilization new or distinctive to the post-9/11 period, and were the associated forms of governance and regulation unique as well?

By tracing back the lineage of these post-9/11 flashpoints on York University campus pertaining to Israel/Palestine, this chapter identifies a number of significant continuities and discontinuities which complicate simple narratives of time which suggest that the events of 9/11 disrupted or interrupted an evolutionary or linear citizenship 'path' or trajectory. Here, the liberal focus on juridical citizenship and questions of belonging is displaced by focusing on citizenship as regulation, governmental belonging, dissident citizenship, and regulated inclusion.

In terms of significant continuities, this case study has demonstrated that a consistent way in which Palestine solidarity activists have been regulated has been through the deployment of the exception. Across the study period, as a strategy of moral legitimation, Israel is consistently portrayed as an exception, or as both victim and entitled, through two associated moves. One, anti-Semitism is treated as exceptional, and; two, the state of Israel is characterized as the 'collective Jew'. As a discursive strategy, the linking of advocacy for Palestinian human rights, critique of Israel, critique of Zionism and anti-Semitism occurs across the study period, and as such has an ongoing and consistent constraining and

regulatory impact on the dissident political work of Palestine solidarity activists, as well those members of the York community that characterize themselves as disinterested.

A second continuity over the study period is that the fairly steady characterization of the university as a dissident and independent space where historical processes of corporatization and militarization threaten the liberal values of the institution only seems to apply consistently when looking at political struggles not related to Israel/Palestine. In this sense, in engaging on the issue of the Israeli occupation, Palestine solidarity activists are, from the outset, positioned not simply as marginal but as an exception.

Third, Palestine solidarity activists consistently experience insecurity on York University campus, despite strategic inversions of power where they are portrayed as singularly threatening. These radical inversions of power express themselves in a variety of ways, for example in the language of multicultural inclusion in the post-9/11 period and the related language of political correctness in the pre-9/11 period.

Fourth, a consistent mechanism of regulation of Palestine solidarity activists as dissident citizens are student codes of conduct as well as other regulations governing student groups. The exceptional moment is a brief period in the early to mid-1990s where the *Excalibur* tracks the ways in which the expectation is that codes of conduct would have an equity orientation or that codes of conduct were primarily about protecting marginalized individuals and groups. By and large, these mechanisms of regulation are used by the university to secure the institution and not dissident and marginalized campus citizens. Moreover, by 2007, York-based Zionist groups would themselves begin to actively advocate for stringent application of codes of conduct *against* Palestine solidarity activists. Finally, across the study period, Israel advocacy organizations actively and strategically adopt liberal

principles such as dialogue, civility, inclusion, peace and balance in order to restrict the political potency of those criticizing the state of Israel.

Discontinuities are also evident across the study period. First, a discernible shift occurs wherein the characterization of the Holocaust as exceptional is progressively and strategically linked to the politics of Israel/Palestine, in order to diminish and delegitimize the claims of Palestine solidarity activists and Palestinians themselves.

Second, while the discourse of the 'new anti-Semitism' certainly predates 9/11, the post-9/11 period is notable in the partial success in normalizing and institutionalizing this broadened definition in order to solidify dominance of the anti-racist political space.

Third, in the post-9/11 period, there is a significant entrenchment and deepening of specific strategies of resistance and mobilization employed by Palestine solidarity activists. In particular, the post-9/11 period sees extensive relationships of solidarity between anti-oppression, anti-globalization, anti-war, anti-imperialist activists and Palestine solidarity activists. This period would also see formal adoption of the apartheid analysis by Palestine solidarity activists. Both of these forms of resistance, mobilization and analysis are clearly evident in the pre-9/11 period, yet in the latter period would emerge as a formal and conscious strategy and analysis. This would ultimately prove particularly threatening to Israel advocacy organizations who stress the exceptionalism of the state, as well as to the increasingly neoliberal and militarized institution of the university. This in part may explain a further discontinuity. While across the study period, contestation over access to space on campus is evident with the university consistently using seemingly neutral rules to govern access to space as well as the politicization of space, the post-9/11 period, or more specifically the post-Concordia period sees an increasingly militarized reaction to the use of

campus space by dissident campus citizens. Adding another layer of complexity here, while this securitization of space may be more of a distinctive attribute of the post-9/11 period, the securitization relies on the racialization of danger, a trend that far predates 9/11.

Fourth, what is also distinctive in the post-9/11 period is the extent of high-level coordination apparent when it comes to the regulation of dissident political activity and Palestine solidarity activists. This is illustrated most vividly with the interventions related to the Mapping conference. As Hamdon and Harris (2010) write, "...more than merely the innocuous enforcement of student code of conduct and room booking rules, administrators at the highest level of major Canadian [sic] universities view the dissent expressed by Palestinian activists as significant enough to warrant coordinated strategies and responses on a regional level." (69). While the events of 9/11 most certainly had an impact, this kind of executive level intervention is also linked to changes in the strategic orientation of Israel advocacy organizations, changes in the scale and scope of resistance, mobilization and strategy on the part of Palestine solidarity activists, and a deepening corporatization and neoliberalization of the university.

At a minimum, these observations regarding continuities and discontinuities suggest that the regulation of Palestine solidarity activists on York University is complex and multilayered, and cannot be uniquely attributed to the terrorist attacks of September 11 2001. A number of other significant observations can be made through this recounting when it comes to implications for scholars of Canadian citizenship.

As a start, analysis of the regulation of citizenship in this context is not simply a domestic one that is focused at the level of the state. Instead, consideration of the regulation of Palestine solidarity activists as dissident citizens plays out within a sub-national

institutional context and a transnational one as well. Consequently, analyses of transitions in citizenship must be attentive to issues of scale, meaning that there is a very real connection here between time and space that is generally submerged in the mainstream liberal accounts.

For example, the *Excalibur* illustrates the ways in which there are surges in both activism and backlash that are linked to the events happening on the ground in Israel-Palestine. Moments of extensive coverage and controversy would coincide with, for example, the 1982 invasion of Lebanon and the First Intifada, the Oslo Accords under the Clinton Administration, the 2006 Lebanon War, the 2008-2009 assault on Gaza, and of course the terrorist attacks of 9/11. The time period covered here is also bookended by periods of active organizing, all of which occurs in complex interplay with domestic politics, for example, the entrenchment of the Charter of Rights and Freedoms in 1982, the prominent hate speech cases of Jim Keegstra and Ernst Zundel, and questions around reasonable accommodation and religious arbitration in the post-9/11 context. As just one illustration of this complex interplay between domestic and international, in the early 1990s, the JSF at York University was the main organizer on campus in support of the US-led campaign against Iraq (Freeman-Maloy 2009). After 9/11, the JSF was renamed Hillel and continued this pattern of support in the 'war on terror' (Freeman-Maloy 2009). This included supporting intensified Israeli attacks on Palestinians, as well as supporting the invasion and occupation of Afghanistan and Iraq (Freeman-Maloy 2009).

Relatedly, the way in which citizenship is regulated is deeply relational and differential; forms and modes of regulation may vary among dissident groups, and periods of repression and relative freedom may also vary among those groups practicing a dissident

politics. For example, as Nadeau and Sears write, the on-campus politics governing dissident citizens on York University campus “...[have] deep roots in the specific history of Palestinian unfreedom, which has centred around sustained efforts to erase Palestinian existence...” (Nadeau and Sears 2010, 7). The personalization of the state of Israel as the ‘collective Jew’ means that these same dynamics extend to York University campus. If Israel is the ‘collective Jew’, Zionist student groups are also the ‘collective Jew’. Domestically insular considerations of citizenship change in Canada are not analytically sufficient to capture this complex dynamic.

As well and secondly, citizenship analyses must also be able to account for the way in which citizenship is regulated in sub-national ways, and in this particular case, the institutional context. As O’Connor (2009) writes, “...confrontation implicit in direct action tactics...is pedagogical, a research step in the effort to understand contemporary ruling regimes. Responses to direct action inevitably reveal the character of those in power (whatever the context), and these revelations can inform activist strategies” (39-40). Social institutions, like universities, have particular logics underscoring them (O’Connor 2009, 40). By paying attention to these rationalities, analyses can identify institutional “contradictions and sites for intervention” (O’Connor 2009, 40), points of interest which have an impact on how citizenship is regulated over time. In this sense, the focus on the securitization of the institution in this analysis highlights the longer historical lineage of the trends of corporatization and militarization of the academy, and also draws attention to the ways in which this increasing neoliberalization of the institution has particular consequences for Palestine solidarity activists. As Stewart writes, “The events at York University exemplify the pressures on academic freedom, as universities are increasingly organized and managed

on market principles. The rise of commercialization and privatization, as government funding declines, threaten the traditional role of post-secondary education as a public good. (Stewart 2010, 57).

Thirdly, this analysis draws attention to the ways in which citizenship scholars must be vigilant about seemingly neutral measures of progress and change. Neutralization itself is a powerful political strategy. As Saifer suggests, "...the Zionist movement does not need to 'win' the campuses. It merely needs to neutralize them so that they do not emerge as a grassroots counterweight." (Saifer 2009, 81). In this way, the appropriation of anti-racist discourses, the purposeful abstraction of principles such as academic freedom and freedom of speech, the appeal to codes of conduct, as well as the embrace of liberal values such as dialogue, tolerance, balance and civility all work together to secure the dominance of Israel advocacy organizations on York University campus.

There are two implications worthy of note here. One is that the abstraction of these concepts and principles is strategic and rooted in power, meaning that these are not neutral variables that can be controlled or used as simple measures of change. This poses dilemmas for citizenship scholars who might, for example, focus on academic freedom as a measure of progress in looking at this particular case study. Yet, as demonstrated in this analysis, York community members are not positioned equally to access academic freedom or freedom of speech, and these fundamental inequalities predate the events of 9/11. Masri elaborates further:

The results of this uneven application of standards and uneven protection of academic freedom is that researchers will have to engage in extensive self-censorship or even avoid writing in the area altogether. This self-censorship or avoidance of critical

engagement with certain questions – habits of mind that Said deemed to be most reprehensible and corrupting par excellence – will limit the margins of what is seen as ‘permissible ideas’ for discussion, precluding from discussion many important and difficult issues. Controlling the margins of what are considered ‘permissible ideas’ will also affect what is considered the ‘center’ in terms of ideas, discourse, and scholarship. (Masri 2011, 26-27).

A second implication raises the uncomfortable specter that theories of liberal multiculturalism, with their fundamental commitment to tolerance and palatable resistance, are in fact quite hospitable to this kind of strategic abstraction and inversion of power. As Nadeau and Sears note, our history of racialization contributes to an enduring privileged receptivity to the Israel narrative in Canada (Nadeau and Sears, 2010, 18), one in which the goal and struggle to end apartheid is displaced.

Finally, this chapter highlights that an uncritical commitment to inclusion as always desirable submerges how inclusion itself is a regulatory strategy when it comes to the governance of citizens. In this sense, inclusion is not an ‘end point’ that can be measured, but rather an ongoing process of regulation. Related to this is the fact that rejection and resistance are critical and politically meaningful ways in which citizenship is enacted, but forms of dis/engagement that are either neglected or submerged in mainstream liberal theories of differentiated citizenship. This observation has profound consequences for how we can possibly think about time, transition and crisis with respect to citizenship. The attention paid to governmental belonging, dissident citizenship and regulated inclusion in this chapter highlights the ways in which the goals of liberal ‘diversity’ management strategies, be they dialogue, tolerance, or balance, are far from benign. Ultimately, these are

not simply strategies to disrupt and destabilize the claims of Palestine solidarity activists, but strategies to, at a minimum neutralize those who are disinterested, and mobilize those who feel that they have a stake. In the case of York University, a focus on the post-9/11 context as being uniquely linked to the terrorist attacks of September 11 2001 relies on profound erasures that dramatically limit how this story can be told.



Chapter 6: Far from Belonging: Citizenship, Security Certificates and the Supreme Court of Canada

6.1 Introduction

In May 2014, in a unanimous decision, the Supreme Court of Canada upheld Canada's controversial revised security certificate laws, and in doing so, upheld the security certificate that names Algerian-born Mohamed Harkat as a threat to the national security of Canada. Harkat has now conclusively been identified as a threat to the security of Canada, and he now awaits a pre-removal risk assessment which will determine whether he will be deported to Algeria, a country known for practicing torture. In interviews after the decision, Harkat stated that, "...if the government of Canada wants to send me to Algeria they have to send me with a box; they going to torture me and bury me on it because the highest court uphold the certificates" (MacCharles 2014). Just seven months prior to that, the Federal Court of Canada similarly upheld the security certificate naming Mohammad Zeki Mahjoub as a terrorist threat to Canada, this despite the court's statement that Mr. Mahjoub's right to a fair trial as guaranteed by section 7 of the *Charter of Rights and Freedoms* and his right to be free of unreasonable search and seizure had been violated.

Mr. Harkat and Mr. Mahjoub are just two of five non-citizens who have been dubbed The Secret Trial Five - five racialized men named and arrested under security certificates. These certificates are immigration orders which when issued in certain cases, can clear the way for non-citizens to be deported from Canada if they are deemed to threaten the state's national security. Under security certificates, non-citizens can be detained, often for extended periods of time, particularly when deportation cannot easily be accomplished (Duffy and Provisi 2009, 532). However, security certificates depart significantly from the

standards and procedures which govern criminal cases or even conventional immigration proceedings (Duffy and Provosi 2009, 532). Certificates can be issued based on evidence the named non-citizen is not allowed to see, and there is extremely limited scope for the judicial review of the named person's detention (Duffy and Provosi 2009, 532).

The security certificate regime is not simply a story about non-citizens, detention and deportation, but is inextricably linked to the governance of citizens *and* non-citizens through security and race, borders, and arguably belonging. Moreover, this story is complex. Where there is very real precariousness in the lives of these non-citizens, this is not neatly counter-posed against any stability of status for all Canadian citizens. As Morton Beiser and Harald Bauder have written, Canada's new citizenship law, Bill C-24, the *Strengthening Canadian Citizenship Act*, makes it more "...difficult to enter Canada, but also to stay and become a citizen" by revoking the citizenship of naturalized persons if officials believe they had no intention to live in Canada, as well as by stripping citizenship from dual citizens who are convicted of particular crimes, even if those convictions occurred outside of Canada (2014).¹⁸²

The boundaries between citizens and non-citizens are similarly murky in a number of recent cases. For example, Deepan Budlakoti, a Canadian-born man whose parents worked for the Indian embassy at the time of his birth was ordered deported to India in 2011. However, neither Canada nor India claim him as their citizen, effectively rendering him stateless. Or, there is the story of the Benhmuda family, a family wrongly deported back to Libya after their refugee claim was erroneously rejected. There, the father of the family was

¹⁸² There is international precedence to this as well. Macklin explains that recent legislation in the United Kingdom permits the Secretary of State to revoke both birthright and naturalized citizenship where the "public good" is at stake (2009, 1).

imprisoned and tortured and upon their reacceptance back into Canada on humanitarian grounds, the government demanded they cover the \$6,800 cost of their initial deportation - a fee that was subsequently waived by the former Minister of Citizenship and Immigration, Chris Alexander, after a huge public outcry (Monsebraaten 2013).

What these stories tell us is that the precariousness of citizenship and non-citizenship is not anomalous, at least for bodies marked in particular kinds of ways. Indeed, the suspicion here is that profound insecurity is fundamental to how citizenship itself is governed, and this continuity in citizenship challenges any notion that citizenship is quintessentially linear or ever more inclusive. Moreover, the contention here is that this profound insecurity is not unique to the post-9/11 period, and for a variety of reasons, this profound insecurity is not fully addressed in mainstream Canadian approaches to citizenship.

This chapter is situated within this zone of fundamental insecurity, and considers the impact of 9/11 for this group of non-citizens entangled in Canada's security certificate regime, a regime that far predates the terrorist attacks of September 11, 2001. What changed for these non-citizens and what remained the same in the wake of this crisis or rupture? To hone in on this question, this chapter considers two pivotal Supreme Court of Canada decisions on security certificates, *Suresh v. Canada (Minister of Citizenship and Immigration)* [2002] [hereafter *Suresh*] and *Charkaoui v. Canada (Minister of Citizenship and Immigration)* [2007] [hereafter *Charkaoui I*].

The *Suresh* decision predates *Charkaoui I* by five years and places the *Suresh* decision as the first major decision that the Supreme Court of Canada released on national security after the terrorist attacks of 9/11. *Charkaoui I* marks the first decision of the Supreme Court

of Canada to invalidate a significant piece of security-related legislation in the post-9/11 context. Comparing Charkaoui's case with Suresh's case is interesting in that Suresh's security certificate was issued well before 9/11, and all prior Federal Court decisions leading up to the final Supreme Court of Canada decision were written prior to 9/11. Suresh's hearings at the Supreme Court of Canada also predate 9/11. Charkaoui's case, however, is fully positioned in the post-9/11 context - and it is this point of comparison that this chapter ultimately considers.

The question informing this examination of security certificates is, 'Did the practices and governance of Canadian citizenship and non-citizenship change after 9/11? If so, how? And, how best can political scientists put together accounts of citizenship change *and* continuity?' To consider these questions, this chapter begins with a legislative and legal history of security certificates themselves, as well as an overview of the Supreme Court of Canada's judgments in *Suresh* and *Charkaoui I*. The bulk of the chapter focuses on an analysis of the texts along three key dimensions: governing through exception, governing through crisis and security, and governing through dissent. Here I move away from a strictly legal analysis to probe the ways in which laws and policies governing citizenship are rhetorically framed (Larsen 2008, 23). This chapter argues that positioning 9/11 as a starting point for change when it comes to the securitization of migration is a difficult proposition to sustain when examining these two pivotal security certificate cases. The analysis here points our attention towards a strong historical lineage of continuity, while at the same time allows room to note the elasticity and flexibility through which national security operates as a technology of governance

6.2 SITUATING THE 'PROBLEM' - SECURITY CERTIFICATES

In terms of Canada's multifaceted national security apparatus, security certificates are just one mechanism or tool at the disposal of the Canadian state (Larsen 2008, 25). As Roach has suggested, Canada's *Anti-Terrorism Act* (ATA)¹⁸³ has seemingly played a more minimal and less problematic role than other elements within the state's counter-terrorism repertoire (2012, 244).¹⁸⁴ With that said, with the ATA, the surveillance and intervention powers of Canadian law enforcement and security personnel are vastly expanded, as the focus is on the prevention of terrorism (Larsen 2006, 17). For example, the ATA includes a new set of legal definitions for terrorism, terrorist activity and terrorist entity, as well as granting the police power for "Investigative Hearings" and the provision for "Recognizance with Conditions" (Larsen 2006a, 17-18). Section 83.28 outlines investigative hearings and allows for police to "...compel testimony of (suspected) material witnesses where there is suspicion of imminent terrorist activity" (Larsen 2006a, 18). Preventative arrest, or the "Recognizance with Conditions" provisions allows for police to make an arrest if they suspect that terrorist activity might be in the planning stages (Larsen 2006a, 18). These arrests can be made without warrant, individuals can be detained without charge, and detained

¹⁸³ Dobrowolsky (2007) provides an excellent detailing of a number of the security-related statutes that passed in the wake of 9/11. For example, along with *Immigration and Refugee Protection Act* (IRPA), Canada's *Anti-Terrorism Act* (ATA) amended the *Criminal Code* to include a new array of offences directly related to terrorist activity (2007, 637). In addition, in December 2001, Canada signed a 'Joint Statement of Cooperation on Border Security and Regional Migration Issues' with the United States, which included information sharing on airline passengers (2007, 637). Also a part of the Joint Statement was the Safe Third Country Agreement which requires that refugees who land in Canada make claims in Canada (2007, 637). The agreement was cast as a mechanism to prevent "asylum shopping" as well as to ease American fears that the Canadian border was unsafe (2007, 637). Other security policies included the establishment of the Canada Border Services Agency in 2003, the introduction of LifeScan digital fingerprint machines at major border offices, and the introduction of Canadian Passenger Analysis Units (2007, 637).

¹⁸⁴ Of note here, on September 27 2001, the United Nations Security Council Resolution 1373 was unanimously adopted. The resolution was a counter-terrorism measure requiring that all member states ensure that terrorism and its financing were serious crimes, and that member states would report these crimes to a new Counter-Terrorism Committee within 90 days (Roach 2012, 245).

individuals can be brought before a judge, facing a maximum of twelve months of recognizance with conditions, which Larsen describes as similar to a parole order (Larsen 2006a, 18).

Also in response to 9/11, the Canadian government released its first national security policy, *Securing an Open Society* (Larsen 2006a, 19). The policy called for additional investments in national security, including an increase in the operating budget for federal police and intelligence gathering organizations, as well as changes to the structure of government (Larsen 2006a, 19). The Department of Public Safety and Emergency Preparedness was created and tasked with the responsibility of coordinating all the activities for security-related departments (Larsen 2006a, 19). Policy initiatives include the creation of a National Security Advisory Council, the creation of a Public Health Agency of Canada to detail emerging bioterrorism threats, the adoption of biometric identification technology in Canadian passports, and the adoption of the SMART borders agenda with the United States (Larsen 2006a, 19). As Larsen describes, the Privy Council Office stated that the rationale for these changes was the need to respond to the threat of terrorism, and particularly to the “horrific events of September 11, 2001” (Larsen 2006a 19, citing Privy Council Office 2004).

More informal, less accountable, and explicitly transnational practices of counter-terrorism lying outside of the ATA (i.e. indeterminate administrative detention such as security certificates, judicially sanctioned possibilities for the deportation of non-citizens and ‘detainees’ to torture, the lack of due process in naming, listing and identifying suspected terrorists, etc...) have been much more problematic in terms of their explicit prioritization of the security of the state, as ambiguous as this is, over the security or the human rights of systemically marginalized individuals (Roach 2012, 244-245). Consequently, despite claims

that security certificates are used only in ‘exceptional’ circumstances, Roach’s point suggests the importance of the regime, particularly when situated within its larger context.

Often described as secret trials, the security certificate regime has fallen under the provisions of the *Immigration and Refugee Protection Act* (IRPA) since 2002. Under the act, security certificates determine admissibility to Canada. They are an “exceptional removal tool” (Larsen and Piché 2007, 2). As per section 77 of the IRPA, if a person named in a certificate is deemed inadmissible on the grounds of “security, violating human or international rights, serious criminality or organized criminality”, the question turns to whether the named person should be deported. As Macklin notes, a person may be deemed inadmissible on security grounds on the basis of “facts for which there are reasonable grounds to believe have occurred, are occurring or may occur” (Macklin 2009, 2). There are six circumstances outlined in the IRPA for when a foreign national or permanent resident may be deemed inadmissible on security grounds:

- (a) Engaging in an act of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;
- (b) Engaging in or instigating the subversion by force of any government;
- (c) Engaging in terrorism;
- (d) Being a danger to the security of Canada;
- (e) Engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or
- (f) Being a member of an organization that there are reasonable grounds to believe engages, has engaged or will engage in acts referred to in paragraphs (a), (b), or (c). (As cited in Macklin 2009, 2).

These provisions have a broad reach, and the threshold of proof to label and deport a person as a terrorist is if there are “...reasonable grounds to believe he is, was, or will be a member

of an organization that there are reasonable grounds to believe has, does, or will engage in terrorism” (Macklin 2009, 2).¹⁸⁵

As described by the Government of Canada, the security certificate process is an immigration proceeding, *not* a criminal proceeding, with the “...objective of the process [being] the removal from Canada of non-Canadians who have no legal right to be here and who pose a serious threat to Canada and Canadians” (Public Safety Canada). As an immigration proceeding, certificates cannot be applied to Canadian citizens. In brief, security certificates are a mechanism that allows for non-citizens (permanent residents, refugees or foreign nationals), who are believed to pose a threat to Canada, to be held, arrested, detained indefinitely, and/or deported on the politically ambiguous grounds of national security.¹⁸⁶ The certificates are issued at the discretion of the Minister of Citizenship and Immigration and the Minister of Public Safety and Emergency Preparedness, who must have reasonable grounds for believing that the non-citizen named in the certificate is a security threat.

¹⁸⁵ In this incarnation of the security certificate regime, section 77 of the IRPA allows the minister to issue the certificate which declares that a non-citizen is inadmissible on the basis of security. Section 78 outlines that the certificate and the detention are subject to review by the Federal Court, but that not all of the information used to issue the certificate must be disclosed. Sections 82-84 of the IRPA state that permanent residents may be detained and that the detention must be reviewed within 48 hours. For foreign nationals, detention is automatic and they cannot apply to have their detention reviewed until 120 days after the judge has determined that the certificate is reasonable. Section 80(3) of the IRPA states that the judge’s assessment of the reasonableness of the certificate cannot be appealed or judicially reviewed. Finally, section 81 of the IRPA states that if the certificate is deemed reasonable, it becomes a removal or deportation order.

¹⁸⁶ Prior to 2002, permanent residents for whom removal was sought on national security grounds were subject to a special process (Duffy and Provisi 2009, 536). Their cases were held before the Security Intelligence Review Committee (SIRC), and the process included procedural safeguards such as security cleared lawyers and delineated evidentiary guidelines for “intelligence” or information claimed to be classified (Duffy and Provisi 2009, 536). The cases of foreign nationals who were not permanent residents were held before a federal court judge (Duffy and Provisi 2009, 536). With the adoption of the IRPA, the SIRC process was eliminated and the proceedings for both foreign nationals and permanent residents were held before a federal judge (Duffy and Provisi 2009, 536).

Security certificates are by definition exceptional. They are used only in “...exceptional circumstances where the information to determine the case cannot be disclosed without endangering the safety of any person or national security” (Public Safety Canada). The process is initiated when a Minister signs a certificate, thereby finding that a permanent resident, foreign national or refugee is inadmissible to Canada (Duffy and Provisi 2009, 537). The basis for security certificates is ‘intelligence’, often collected by the RCMP and by CSIS. This ‘intelligence’ information has been known to be provided by individuals held in states by foreign intelligence agencies known to employ torture (Larsen and Piché 2009, 207).

If the named person is already in Canada, deportation proceedings are triggered (Duffy and Provisi 2009, 537). While the IRPA prohibits the return of “protected persons” to a country where they would be at risk for torture or persecution, there is an exception in section 115(2)(b) (Thwaites 2009, 692). Ministerial discretion is exercised through “danger opinions” (Thwaites 2009, 692). Here, the minister must weigh the risk the named individual poses to Canada, against the risk posed to the named individual if they were to be deported (Thwaites 2009, 692). Danger opinions are subject to judicial review (Thwaites 2009, 692). If a deportation order is quashed, the protected person’s removal is prohibited until there is a new determination that there is no risk of persecution or torture (Thwaites 2009, 692-693).

Under the IRPA from 2002-2008, if a certificate was signed, foreign nationals were automatically detained and permanent residents could be detained (Duffy and Provisi 2009, 537).¹⁸⁷ The detention of a named person in a certificate is preventative, not punitive. No

¹⁸⁷ This changed after the Supreme Court of Canada’s ruling in *Charkaoui I*.

charges have been laid, and there is no certainty that the named person has engaged in anything illegal. The intention of the detention is to quickly determine if the individual is to be deported (Bell 2006b, 69).

After a certificate has been signed by the Minister, it is then reviewed by a Federal Court judge, and the standard is not about establishing an actual threat, but the possibility of a threat (Bell 2006b, 68). As per s. 80 of the IRPA, the judge reviews the grounds for legitimacy of the certificate to determine if the certificate was reasonably issued (Bell 2006b, 64). The burden of establishing reasonableness lies with the Minister, however, they do not have to prove that the person named in the certificate constitutes an actual national security threat - rather, the judge must only be convinced that it was reasonable for those issuing the certificate to have believed that it was so (Bell 2006b, 68). Consequently, the hearing before the Federal Court judge is about forecasting future action on the part of the named person - this is not a fact-finding endeavor - evidence is assessed for the extent to which it suggests a possibility that an individual does or may constitute a threat (Bell 2006b, 73).

That the regime is not governed under criminal law and that the regime is about forecasting future action are even more problematic given how evidence is handled in the security certificate process. Under the security certificate process considered by the Supreme Court of Canada in *Charkaoui I*, the government could request an *in camera* interview with the judge if the evidence being used to support the certificate was alleged to be classified (Duffy and Provisi 2009, 537). The named person and his/her representative would not be present during this interview. Moreover, in this process, the named person and his/her legal representative would not be allowed access to evidence that was potentially being used as a basis upon which to make decisions regarding the certificate or

the deportation (Duffy and Provosi 2009, 538). In some cases, summary evidence might be provided to the named person/detainee (Duffy and Provosi 2009, 538).

If the judge deems the certificate reasonable, the certificate is treated as “conclusive proof” that the individual is inadmissible to Canada (Bell 2006, 64). Meaning, if the judge found the certificate reasonable, the named person/detainee has no right to appeal (Duffy and Provosi 2009, 538). If the individual is already present in Canada, they can be deported, and under exceptional circumstances, or what’s known as the Suresh exception, an individual can be deported to country where they are at risk for torture (*Charkaoui I* at para 7).

As might be expected, there has been extensive critique of the pre-(and post-) 2008 security certificate process, particularly with respect to its function as a pre-deportation order justifying indefinite detention without charges (Burman 2006, 280), the lack of evidentiary standards¹⁸⁸, the lack of access individuals and their representatives have to the evidence used to issue the certificate (Bell 2006b, 73; People’s Commission 2007, 24), as well as the use of closed *ex parte* hearings between Federal Court judges and the Minister.

Other criticisms of the pre-2008 process focus on the inherently discriminatory aspect of it in that the process only applies to those individuals without Canadian citizenship, therein problematizing non-citizens and exempting Canadian citizens (People’s Commission 2007, 24; Oriola 2009, 258). Critics have consistently noted that key terms in the IRPA like national security, terrorism and membership in a terrorist group are vague and generally undefined

¹⁸⁸ For example, citing section 3(3)f of the IRPA, Amnesty International (AI) has stressed the requirement that security certificates be in full compliance with Canada’s international human rights obligations. AI notes that individuals must have access to detailed reasons for their detention, they must have access to a fair and substantive hearing, said hearing must be transparent, they must have full access to relevant evidence, and provisions must be made for an individual to be heard (People’s Commission 2007, 24).

(People's Commission 2007, 24). Critics also note that with security certificates operating through administrative immigration law, individuals named in the certificate are denied the right to be tried under normal adversarial procedures of Canadian criminal law (Bell 2006b, 73). Linked to this is the observation that the regime violates principles of fundamental justice. Individuals named in the certificate have no right to appeal, there is a very low standard of review in that the court will defer to the Minister on substantive matters, and appellant's do not have the capacity to make full answer and defence (Canadian Civil Liberties Association 2007, at para 4).¹⁸⁹

Related to this, the assessment of the reasonableness of the certificate is focused on the rationality of the Minister and not on a review of the legitimacy of the certificate itself (Razack 2007, 5). In addition, the threshold for issuing a certificate is low, but the consequences of being named are exceedingly high. As Razack has explained, the test for a finding of reasonableness of the certificate is a 'possibility', not probability threshold (Razack 2007, 5). Put differently, the threshold is one of "objectively reasonable suspicion" or "reasonable grounds to believe", not the criminal law standard of beyond all reasonable doubt (Larsen and Piché 2009, 207; People's Commission 2007, 24). These critiques are heightened even further when one considers what is perhaps the most damaging critique of the security certificate regime - that it is profoundly and deeply racialized, by and large

¹⁸⁹ In *Charakaoui I*, the CCLA also argued that the principles of fundamental justice generally require the right to counsel and knowledge of the case one has to meet. In addition, the CCLA asserted that *ex parte* proceedings without special advocates are not procedurally fair, that the adversarial system cannot be sustained when both parties are not represented by counsel, that judicial independence is compromised when both parties are not represented by counsel, that the vague grounds of inadmissibility should suggest a commitment to greater procedural fairness, that the denial of a right to appeal is arbitrary and unjust and that the current scheme cannot be saved by s. 1 of the *Charter*.

premised on the discrimination and profiling of Muslims, Arabs, those perceived to be Muslim or Arab, as well as other racialized minorities (Bell 2006b, 79).¹⁹⁰

6.2.1 Security Certificates and 9/11

Particularly thanks to the efforts of activists publicizing the cases of five Muslim men held on security certificates who came to be known as The Secret Trial 5, in terms of the public consciousness, security certificates emerged as controversial *after* 9/11. Together, these five men - Hassan Almrei, Mohamed Harkat, Mahmoud Jaballah, Mohammad Zeki Mahjoub and Adil Charkaoui - have spent over 25 years in jail or were detained without being charged with any specific crime¹⁹¹.

However, despite their elevated profile in public discourse post-9/11, security certificates have existed in one form or another since 1978, although they were only first used in Canada in 1991. The process has evolved from its inception in 1978 to its present format with each “...iteration [being] more restrictive and secretive than the last” (Macklin 2009, 3). The IRPA does, however, augment the “use and effect” of security certificates (Crépeau and Jimenez 2004, 621). For example, the legislation streamlines the removal

¹⁹⁰ As Bell details, the Canadian Council on American-Islamic Relations and the Canadian Arab Federation have noted that stereotyping of Arabs and Muslims has involved increased scrutiny by security agencies and police, racial and religious profiling, discrimination in daily life, as well as a “palpable chill” in the attendance at community events and activities (2006b, 79).

¹⁹¹ As of today, the status of these 5 men has changed. After spending 43 months in prison, Mohamed Harkat was placed under house arrest, and was allowed in July 2014 to remove his GPS tracking bracelet from his ankle. Harkat unsuccessfully appealed the constitutionality of the security provisions in the IRPA, and the Supreme Court of Canada upheld his security certificate. A deportation order for Harkat has been issued and as recently as December 2015, Harkat has called on the new Liberal government to halt his deportation order. In 2007, Mahmoud Jaballah was released and put under house arrest. This was one day after Mohammad Zeki Mahjoub was released. Jaballah and Mahjoub could still face removal from Canada. In 2009, more than 8 years after his arrest, Hassan Almrei’s security certificate was disposed, with the judge holding that the evidence did not hold up to scrutiny. Finally, after many years of struggle and two cases heard before the Supreme Court of Canada, Adil Charkaoui had all of his conditions of release removed and his security certificate was quashed. Although he is a “free man”, Charkaoui still faces ongoing harassment, the most recent case being an attack in May 2014 at a community centre where Charkaoui is director.

process by eliminating appeals, broadening the provisions for certificate issuance in the case of organized crime, and providing for “suspension or termination of a claim for protection upon their issuance” (Crépeau and Jimenez 2004, 621).¹⁹²

In 2007, The Standing Committee on Citizenship and Immigration noted that since 1991, the state had issued 28 security certificates, with six of those issued after 9/11 (Oriola 2009, 262). Twenty of those certificates were upheld (Wilke and Willis 2008, 29). Membership in a terrorist organization has been the most common reason for the issuance of a security certificate - these groups have included the Palestinian Liberation Organization, Egyptian Islamist group, Al-Jihad, Babbar Khalsa International, the Kurdistan Worker’s Party, Liberation Tigers of Tamil Eelam (Wilke and Willis 2008, 29).¹⁹³ The majority of those named and detained on security certificates have been men - racialized men, originally from countries in the Middle East or North Africa.

Those men detained on certificates after 9/11 have been subject to detention or house arrest for much longer than was custom prior to 9/11. Looking at Wilke and Willis’ (2008) data, in 12 of the 15 pre-9/11 cases, persons were deported, occasionally to a third state, within two years of the certificate being issued (30). The large majority were deported within one year (Wilke and Willis 2008, 30). This has not been the case since 9/11. Security certificates were originally designed to speed up the deportation of non-citizens who were

¹⁹² Other changes with the IRPA included: 1) implementing a single process for permanent residents and non-permanent residents deemed security threats; 2) implementing the provision that security certificates automatically become deportation orders that cannot be appealed once found reasonable by the Federal Court, and; 3) suspending immigration proceedings for individuals named in a certificate until the Federal Court has made a decision regarding the reasonableness of the certificate (Crépeau and Jimenez 2004, 621).

¹⁹³ Three suspected Russian spies and two members of Yasser Arafat’s secret security force were also deported under the certificates (Wilke and Willis 2008, 30).

considered inadmissible on security grounds, yet in their current articulation they seem to facilitate indefinite detention (Wilke and Willis 2008, 30).

Despite some of the tangible shifts post-9/11, in a number of ways, the security certificate process is not entirely without precedent¹⁹⁴. For example, the *War Measures Act*, instituted first in 1914, allowed for the regulation and deportation of persons considered *persona non grata* (Oriola 2009, 259). The act made membership in particular named organizations illegal; it enabled anyone who advocated for the views of named organizations to be found guilty of an indictable offence, even if the individual did not contemplate or commit a terrorist act; it permitted suspected persons to be detained without charge; it permitted arrest without warrants, and; it permitted the search and forfeiture of property to the state (Oriola 2009, 258).¹⁹⁵ More broadly, countless scholars have painstakingly delineated how the Canadian state's historical record is founded upon ongoing state actions that criminalized 'foreigners' or immigrants attempting to enter the country (Aiken 2000,

¹⁹⁴ See Crépeau and Jimenez (2004) for a detailed listing of the changes to the regulation of non-citizens post 9/11.

¹⁹⁵ It also warrants noting that section 86 of the IRPA also provides that the Minister of Citizenship and Immigration can apply for *ex parte* hearings and use secret evidence before the Immigration and Refugee Board (People's Commission 2007, 27). Consequently, secret evidence and *ex parte* hearings are not restricted to security certificate proceedings with the Federal Court - administrative tribunals and other types of cases are also subject (People's Commission 2007, 27). The difference between the two processes, however, is that in section 86 cases, the government must show that their case is valid, whereas in security certificates, they are held to a standard of reasonableness (People's Commission 2007, 28). As Roach (2006) notes, there have been other controversial uses of Canadian immigration law as anti-terrorism law (423). See for example Roach's discussion of "Project Thread", in which Canadian immigration law was used to detain 23 non-citizens from Pakistan (Roach 2006, 423). The men were marked as suspicious, in part because they appeared to "...reside in clusters of 4 or 5 young males and [appeared] to change residences in clusters and/or interchange addresses with other clusters...All targets were in Canada prior to September 5, 2001. A confirmed associate of the group provided an offer of employment from Global Relief Foundation... [which] has been identified by the United Nations as a fundraising group that provides financial support to terrorist groups, including Al Qaeda...One of the targeted apartments [was] reported to have aeroplane schematics posted on the wall, as well as pictures of guns." (Roach 2006, 423). The allegations of the men being a security threat were subsequently retracted, however many of the men were deported on the basis of immigration offences related to fraudulent student visas (Roach 2006, 423-424).

60). Consequently, it is far from anomalous that in a settler colonial state, immigration laws are used to settle “desirable” immigrants and exclude “undesirable” ones (Aiken 2000, 60).

Consequently, security certificates are *not* simply products of the post-9/11 legislative window that gave us a whole new vocabulary of terrorism and security-related legislation. The draft legislation of the IRPA pre-dates the 9/11 attacks, and as Macklin writes, “...it is telling that the political climate that ensued *did not actually affect the content of the legislation as much as dampen dissent from opposition politicians and civil society*. In effect, the Canadian government had already decided to ‘get tougher’ on non-citizens. The events of 9/11 simply made it easier to do so.” (Macklin 2009, 2 – emphasis added). Thinking back to the 1990s, the state focused quite explicitly on putting immigration and citizenship politics on top of the political agenda (Dobrowolsky 2007, 632). As Aiken describes, in the early 1990s, Cold War security considerations gave way to a heightened preoccupation with “illegal” migration from the Global South, and the Canadian state responded in 1992 by introducing restrictive amendments to the *Immigration Act, 1976* (Immigration Act) by way of Bill C-86, to create terrorism as a category of security inadmissibility for refugees (2000, 63). By the early 1990s, most forms of appeal previously available to non-citizens had been eliminated (Crépeau and Jimenez 2004 610). Refugees would be considered inadmissible if they were believed to have engaged, be engaged, or have the *potential to* engage in terrorist activities, or if they were members of an organization labelled ‘terrorist’ (Davies 2006, 381).

Under the heading “Safety and Security of Canada”, other amendments to the Immigration Act focused on changing the existing immigration security procedures (Aiken 2000, 63). Alongside terrorism as a new category of security inadmissibility, the act was notably vague in terms of defining concepts like “security of Canada” or “membership in an

organization engaged in terrorism”, leaving these to the discretion of the Minister (People’s Commission 2007, 15). The Immigration Act also envisioned a greater role for CSIS, delegating further powers to the agency such as the job of identifying possible terrorists, leading to an increase in the surveillance of certain refugee communities by CSIS (People’s Commission 2007, 16). By 1995, in response to two murders wrongly alleged to have been committed by immigrants in Toronto, the federal government implemented an amendment that imposed mandatory detention and deportation of refugees and permanent residents, without recourse to appeal, if the appellant was deemed a danger to the Canadian public (Davies 2006, 381).

The IRPA itself, while coming into effect after 9/11, had been in development since 1997.¹⁹⁶ As Dobrowolsky explains, this act marked one of the most significant changes to Canadian immigration law in decades (2007, 633). Compared to the Immigration Act, the security provisions of the IRPA were expanded and government discretion in matters relating to the national security threat posed by non-citizens was increased (Bell 2006b, 64). The IRPA also mandated security checks even before the asylum processes for refugees would begin (Razack 2007, 17). Consequently, contrary to its name, the act was less about the protection of immigrants and refugees, and more so about the consolidation of state security, deemed to be threatened by refugees and potential immigrants who were either “abusing” the system at best, or terrorists at worst (Dobrowolsky 2007, 633). With respect to security certificates, the IRPA also reframed migrants who did not have citizenship into the new category of “foreign nationals” (People’s Commission 2007, 16). So while the content

¹⁹⁶ The IRPA received royal assent on November 1, 2001 and came into force in June 2002.

of the IRPA meshed clearly with post-9/11 discourse, these changes were all drafted well before (Dobrowolsky 2007, 633).

What this abbreviated history demonstrates is that while after 9/11, the association of terrorism and migration intensified, quite early on, the state was willing to target non-citizens by using immigration legislation, rather than criminal law (Davies 2006, 381; People's Commission 2007, 16). Put differently, there is a strong historical lineage to current deportation and detention practices which are characterized as protecting the security of Canada. These practices are less about protecting democracy or preventing genuine threats to the state, and more so another tool in an "increasingly sophisticated arsenal, to contain and manage refugee admissions" (Aiken 2000, 55). With this historical shift, non-citizens, especially particular refugee or non-citizen communities, lose any entitlement to the albeit imperfect protections, procedural or otherwise, normally granted through criminal law (Davies 2006, 381). All the while, these non-citizens are subject to higher levels of security scrutiny (Aiken 2000, 55).

Given this, even though the state does not often use the security certificate mechanisms to formally brand non-citizens as threats to national security, the "crime-security nexus" driving the certificate process, also "drives immigration penalty in general" (Larsen 2008, 26). Consequently, the securitization of migration far predates 9/11, with non-citizens, and refugees in particular, increasingly cast as threats as opposed to rights bearing subjects (Larsen 2008, 26). As Dobrowolsky aptly states, "While im/migration and security concerns were already interlaced by states prior to 9/11, as IRPA in Canada illustrates, the knot was tightened post 9/11." (2007, 635).

6.2.2 Legal History

While the common law distinction between ‘aliens’ and citizens is reinforced by the section 6 mobility rights outlined in the *Charter of Rights and Freedoms*, the *Charter’s* fundamental and legal rights (sections. 2, 7-14) are extended to ‘everyone’ (Bassan 1996, 597). Consequently, in the immigration context, the fundamental freedoms and legal rights sections are often invoked by non-citizens who have been ordered deported from Canada (Bassan 1996, 597). While the status of a non-citizen claiming protection against deportation can vary (e.g. refugee claimant, a permanent resident, and permanent resident seeking new status as a refugee claimant) most challenges made by non-citizens attempting to use the *Charter* when facing deportation are unsuccessful (Bassan 1996, 597-59).¹⁹⁷

However, as Bassan explains, a number of key judgements in this area of domestic immigration law demonstrate that the jurisprudence is inconsistent in many respects, but is also narrowing in favour of governmental discretion and national security concerns. For example, *Singh v. Canada (Minister of Employment and Immigration)* [1985] involved the deportation of refugee claimants who had been unsuccessful in establishing their status as convention refugees, and feared political persecution in their home countries (Bassan, 1996, 598). The Supreme Court found that the procedures set out in the *Immigration Act (1976)* governing the determination of refugee status claims violated s. 7 of the *Charter* and s. 2(e) of the *Canadian Bill of Rights*. Fundamental justice required that the claimants have an oral hearing before they could be denied refugee status (Bassan 1996, 598). The procedures involved in the adjudication of refugee claims effectively denied claimants an opportunity to

¹⁹⁷ Bassan notes that unsuccessful attempts have been made to engage ss. 11(h), 12, 15 and 7 of the *Charter*(1996, 597-59).

be heard, as well as not allowing them to have the opportunity to know the case they had to meet (Bassan 1996, 598). The decision was also significant in that “security of the person” could be engaged by state-imposed psychological stress felt by non-citizens who feared punishment abroad (Bassan 1996, 599). Moreover, the decision made clear that the “everyone” referred to in section 7 of the *Charter* was, “intended to encompass a broader call of persons than citizens and permanent residents” (*Singh* at para 202).

By 1992, the Supreme Court released another precedent setting decision, this time focussing on non-citizens with permanent resident status. In *Chiarelli v. Canada (Minister of Employment and Immigration)* [1992], the court asserted that deportation for the commission of a serious criminal offence does not violate section 7 of the *Charter* (Cohen 1994, 470). In addition, the case raised the issue of whether section 15 of the *Charter* prohibited the mandatory deportation of a non-citizen convicted of an offence carrying a punishment of five years or more (Thwaites 2009, 675). The permanent resident had been convicted of possession of narcotics for the purpose of trafficking and was ordered deported under section 32(2) of the *Immigration Act* (Bassan 1996, 599). In considering section 7, the court limited the scope of the application of *Charter* rights as set out in *Singh*, and held that it was *not* necessary to decide whether deportation for serious offences can be conceptualised as a deprivation of liberty (Bassan 1996, 599). The court also noted that section 6 of the *Charter* specifically provides for the differential treatment of citizens and permanent residents meaning that is not discrimination contrary to section 15 in a deportation scheme that applies to permanent residents, but not citizens (Thwaites 2009, 676). Relying, for the first time, on the distinction between citizens and non-citizens to

determine that *Charter* rights had not been infringed upon, the *Chiarelli* distinction would shape future jurisprudence on equality, immigration policy and practice (Bassan 1996, 599).

In February 2001, the Supreme Court of Canada ruled in *United States v. Burns* [2001]. The case dealt with the constitutional validity of an extradition order issued by the Minister of Justice against two Canadian fugitives who were wanted in connection with a triple murder in the United States (Coutu and Giroux 2006, 320). The order for extradition was issued without an assurance that the state of Washington would not impose the death penalty. Consequently, the court had to determine whether the death penalty conformed with section 7 of the *Charter*, but in this context, the risk of capital punishment would be inflicted by the country requesting the order (Coutu and Giroux 2006, 320). The Supreme Court of Canada found that section 7 was infringed upon because the order for extradition was granted without assurances being sought regarding capital punishment (Coutu and Giroux 2006, 321-322). The court relied here on the development of international human rights law with respect to the death penalty as well as on concerns about potential wrongful convictions (Coutu and Giroux 2006, 321-322).

By 2002, in *Suresh*, the Supreme Court of Canada would hand down its first major immigration judgment in the post-9/11 period, and the first of two security certificate decisions to be considered more fully here.¹⁹⁸

¹⁹⁸ The security certificate process discussed in this paper is the pre-2008 regime. In 2007, responding to the Supreme Court of Canada's decision in *Charkaoui I*, the federal government amended the IRPA to ensure its constitutionality.

Suresh

As Carver states, when the Supreme Court of Canada reserves judgment at the close of an argument, "...it generally does so confident that the legal world will stay in place pending its decision" (2002, 465). Such would not, however, remain the case when the court reserved judgment in *Suresh* on May 22 2001. Between May 2001 and the date on which the Supreme Court of Canada rendered its judgment - January 2002 - the terrorist attacks of 9/11 would occur, Parliament enacted an extensive package of legislation aimed specifically at fighting terrorism, and the IRPA amounted to a fully rewritten immigration statute (Carver 2002, 465). Seemingly, things would not be the same.

In *Suresh*, the court was faced with determining whether the Canadian government had the authority to deport suspected terrorists to countries where they faced a substantial risk of torture. The court in fact released four decisions on January 11 2002¹⁹⁹, two of which concerned the deportation of two convention refugees - Manickavasagam Suresh and Mansour Ahani. Suresh and Ahani had been deemed terrorists and were held on security certificates on the ground that they posed a risk to national security. In both cases, Suresh and Ahani faced a substantial risk of torture if deported to Sri Lanka and Iran respectively, which they argued was contrary to Article 3 of the Convention Against Torture (Macklin 2009, 4). Both of these cases came before the Supreme Court of Canada prior to 9/11, and there were two very different substantive results rendered for these two men. Suresh stayed in Canada, and Ahani was eventually deported to Iran.²⁰⁰ The *Suresh* case, in particular, had

¹⁹⁹ In addition to *Suresh*, these included *Mansour Ahani v. Canada* (2002), *Chieu v Canada* (2002), *Al Sagban v Canada* (2002).

²⁰⁰ While this paper focuses on Suresh's case, there has certainly been excellent work done which reads these two cases together. See for example, Audrey Macklin, "Mr. Suresh and the Evil Twin", *Refuge* 20(4): 15-22.

very important ramifications for the ways in which Canada protects non-citizens at risk, as well as the ability of the state to *refouler* - deport to a place where they are at risk - persons who have already been accepted as convention refugees by the state (Okafor and Okoronkwo 2003, 31).

Background - Lower courts

Suresh arrived in Canada in 1990 from Sri Lanka, and he was accepted as a convention refugee on April 1991 based on his purported fear of persecution by the Liberation Tigers of Tamil Eelam (LTTE) - a resistance group fighting for Tamil independence in Sri Lanka (Carver 2002, 466). As a convention refugee, Suresh would be entitled to apply for landed immigrant or permanent resident status in Canada, which he did in the summer of 1991 (Okafor and Okoronkwo 2003, 34). The Convention Refugee Determination Division of the Immigration and Refugee Board approved his claim, however, before he was able to obtain permanent resident status, Canadian authorities identified Suresh as a leading figure in the LTTE, and an active fundraiser for the World Tamil Movement (Carver 2002, 466).

On this basis, in late 1995, the Solicitor General of Canada and the Minister of Citizenship and Immigration issued a security certificate under section 40.1²⁰¹ of the *Immigration Act*, 1976 (Okafor and Okoronkwo 2003, 34).²⁰² The certificate alleged that

²⁰¹ The process under s 40.1 has three main consequences. First, when a certificate is issued, the person is subject to automatic arrest and detention. Second, if the certificate is upheld as reasonable, the person has no right to appeal to the Immigration Appeal Division of the Immigration and Refugee Board. Third, the intelligence information used to issue the certificate can be subject to non-disclosure to the person named and his/her counsel. See Carver 2002, 467.

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Suresh was inadmissible under section 19 of the act. According to the certificate, the LTTE was a terrorist organization (Okafor and Okoronkwo 2003, 34). Upon issuance of the certificate, Suresh was detained and deportation proceedings began in early 1995 (Carver 2002, 466).

Under the *Immigration Act*, 1976, security certificates are automatically reviewed by a Federal Court judge who determines whether the certificate is reasonable, as well as how much of the intelligence information can be disclosed to the named person and his/her counsel (Carver 2002, 467). A 50-day hearing took place, and in 1997, Teitelbaum J. of the Federal Court (Trial Division) upheld Suresh's certificate as reasonable. Teitelbaum J. found that Suresh was a top member of the LTTE, that the LTTE had in fact committed terrorist acts, that Suresh lacked credibility, that Suresh himself had not engaged in any terrorist activities, and that Tamils like Suresh are sometimes subject to torture by security agencies in Sri Lanka (Carver 2002, 467; Okafor and Okoronkwo 2003, 34). In the deportation hearing that followed, an immigration officer again found that there were no grounds to conclude that Suresh was directly engaged in terrorism, that Suresh faced a risk of torture, that this risk of torture was likely mitigated by his high profile, and that he should still be deported as a member of a terrorist organization (Carver 2002; 468-469; Okafor and Okoronkwo 2003, 34). On January 6, 1998, the Minister issued an opinion under section 53(1) of the act, declaring Suresh to be a danger to Canada, and ordered Suresh's deportation (Carver 2002, 469; Okafor and Okoronkwo 2003, 35). Suresh was not provided with a copy of the

immigration officer's memorandum to the minister, and was not given an opportunity to respond to the decision to *refouler* him (Okafor and Okoronkwo 2003, 35).²⁰³

Suresh applied to the Federal Court for judicial review, challenging the reasonableness of the Minister's decisions, as well as the constitutionality of the deportation procedures under the *Immigration Act*, 1978 as violating section 7 of the *Charter* (Carver 2002, 469; Okafor and Okoronkwo 2003, 35). McKeown J. dismissed his application for judicial review, but acknowledged that section 7 of the *Charter* must be informed by international law, specifically the *Convention Against Torture*. However, McKeown J. stated that Suresh had demonstrated that he faced a substantial risk of torture, that Suresh still posed a risk to national security, and that his deportation would not "shock the conscience" of Canadians (Okafor and Okoronkwo, 2003, 35).

Again, Suresh appealed the decision, which the Federal Court of Appeal dismissed, holding that the state's right to expel those who constituted a security risk overrode the international legal right to be free from torture. The court stated that, in fact, the *Convention Relating to the Status of Refugees* permits derogation from this prohibition of deportation to torture (Okafor and Okoronkwo 2003, 36). Consequently, while deportation to torture may violate section 7 of the *Charter*, the legislation is saved by section 1 of the *Charter*, in part because deportation to torture of someone who posed a danger to our security would not violate the sense of justice of Canadians (Okafor and Okoronkwo 2003, 36).

²⁰³ Under the *United Nations Convention Relating to the Status of Refugees*, refugees have the right of non-refoulement - a right not to be returned to the country where they faced persecution. This right is, however, subject to an exception in article 33(2) of the convention (Carver 2002, 467-468).

The appeal to the Supreme Court of Canada was allowed, with that court overturning the decision of the Federal Court of Appeal, and ordering a new deportation hearing (Okafor and Okoronkwo 2003, 36).

Supreme Court of Canada Decision

At the Supreme Court level, the issue at stake was whether the state, under section 53(1) (b) of the *Immigration Act* 1976, could deport refugees back to their countries of nationality on the grounds that they were a threat to the national security of Canada. Did this violate section 7 of the *Charter*? Well before 9/11, this was already the boundary of acceptable discourse. Can we send refugees back to their countries of origin even if they will be tortured? This was an askable question.

Exactly four months after 9/11, the court released its unanimous decision in the case. Suresh's procedural rights had been violated. While the court did not feel that Suresh was entitled to an oral hearing, Suresh should have received a copy of the immigration officer's report to the Minister, and the Minister should have provided Suresh with reasons for her decision (Carver 2002, 469). The court went on to state that if certain procedural proprieties were adhered to, refugees could be deported on the risk of torture in exceptional circumstances - and this came to be known as the Suresh exception.²⁰⁴ So, the ruling legitimized removals on the risk of torture or death in the presence of "exceptional circumstances" (Larsen and Piché 2009, 207). Put differently, the court ruled that deporting suspected terrorists to countries where they face torture would, in most instances, violate

²⁰⁴ If the person facing deportation can make the case of a risk of torture upon deportation, the procedural guarantees they are entitled to are as follows: the right to be informed of all relevant material on which the deportation order is based; an opportunity to respond to the evidence through written submissions, and; the obligation for the minister to provide written reasons for the decision (Coutu and Giroux 2006, 326).

the right to life, liberty and security of the person under section 7 of the *Charter* (Macfarlane 2012, 163). So, the court did not entrench or expand an anti-torture or non-*refoulement* norm in Canadian law (Okafor and Okoronkwo 2003, 32), which as Thwaites explains is a decision which is unremarkable given the timing (Thwaites 2011, 28). Ultimately, despite a very strong opening, the *Suresh* court weakened the high level of human rights protection that might be logically expected as a consequence of previous Supreme Court decisions, for example in *Burns*, it “...undermined the Court’s allegiance to international human rights law and inserted inconsistencies in the Court’s case law in extradition and deportation matters” (Coutu and Giroux 2006, 323).

Charkaoui I

The *Suresh* decision only addressed the final phase of the process, which arose after a security certificate had already been upheld as reasonable and involved the exercise of executive discretion by the Minister to deport the named person (Macklin 2009, 5). It took another six years before the judicial assessment of the reasonableness of the security certificate itself came under scrutiny by the Supreme Court of Canada (Macklin 2009, 5).

Following 9/11, Adil Charkaoui, Mohammad Harkat and Hassan Almrei were all detained separately on the basis of security certificates alleging that they constituted a threat to the security of Canada by reasons of alleged involvement in terrorist activities. During the course of their detentions, Charkaoui, Harkat and Almrei each unsuccessfully challenged the constitutionality of the IRPA’s security certificate scheme as well as the detention review

process.²⁰⁵ Winding their way to the Supreme Court of Canada, Charkaoui, Harkat and Almrei challenged the constitutionality of the security certificate process in June 2006. The second major decision on security certificates rendered by the Supreme Court of Canada would come five years after Suresh in what has come to be known as *Charkaoui I*. In contrast to *Suresh*, the *Charkaoui I* case fell fully within the post-9/11 period, with the certificate itself being issued after 9/11, as well as all federal court judgments. Moreover, in contrast to *Suresh*, the *Charkaoui I* case fell fully under the auspices of the IRPA.

Background - Lower courts

At the time that Adil Charkaoui was first arrested and detained under a security certificate, he was a permanent resident of Canada who had come from Morocco. Charkaoui had been living in Canada since 1995. In 2003, he was arrested and detained under a security certificate on the grounds that he was allegedly associated with terrorist activities (Duffy and Provisi 2009, 533). Charkaoui was released under condition of bail in 2005 (Duffy and Provisi 2009, 533). For an extended period time, Charkaoui was constantly monitored with an electronic device to be worn all times, and his ability to travel and communicate via telephone was significantly restricted (Duffy and Provisi 2009, 533). As with other members of the Secret Trial 5, Charkaoui was held without ever having been charged with any crime. Charkaoui also maintained that were he deported to Morocco, he would be at risk for torture, and he has also consistently denied any terrorist affiliations. Much of the

²⁰⁵ *Charkaoui (Re)* [2004] 1 F.C.R. 528, 2003 F.C. 882; *Harkat v. Canada (Minister of Citizenship and Immigration)* [2006], 270 D.L.R. (4th) 50, 2006 F.C. 628; *Almrei v. Canada (Minister of Citizenship and Immigration)* [2005] 270 F.T.R. 1, 2005 F.C. 1645.

evidence used against Charkaoui has been labelled classified, meaning that he and his representatives have only seen summaries of the evidence (Duffy and Provosi 2009, 534).

Charkaoui's case was heard at the same time as two other men named and detained on the basis of security certificates - Mohamed Harkat, a Convention refugee originally from Algeria, and Hassan Almrei, a Convention refugee originally from Syria.²⁰⁶ At the Federal Court, Charkaoui argued that security certificates were discriminatory in that non-disclosure of evidence to the named person violated section 7 of the *Charter*, in particular the right to know the case presented against oneself. The capacity of the named person to respond to the case against her/himself was also impaired by *in camera* proceedings. These constitutional arguments, as well as the argument that the procedural rights of the named person were violated did not resonate with the court.

Supreme Court of Canada Decision

The Supreme Court of Canada granted leave to appeal, and Charkaoui, Almrei and Harkat argued that IRPA's security certificate scheme was unconstitutional, violating five provisions of the *Charter*: the section 7 guarantee of life, liberty and security of the person;

²⁰⁶ Mohamed Harkat is a Convention refugee originally from Algeria who has lived in Canada as a foreign national (Duffy and Provosi 2009, 534). He was arrested and detained in 2002 and in 2005, a judge of the federal court ruled his certificate was reasonable (Duffy and Provosi 2009, 534). He was released in 2006, under extensive bail conditions that restricted his movements, his ability to use the phone and internet, his ability to remain unsupervised in his home (Duffy and Provosi 2009, 534). He was advised that he would be deported to Algeria, which he challenged on the basis that he would be at risk of torture (Duffy and Provosi 2009, 535). In January 2008, he was rearrested on a government allegation that he had violated the terms of the conditions to his release, but he was subsequently rereleased on conditions while the court considered those allegations (Duffy and Provosi 2009, 535). In May 2014, the Supreme Court of Canada upheld the constitutionality of the security certificate regime and in doing so, upheld Harkat's security certificate. He is now awaiting a pre-removal risk assessment to determine if he will be deported back to Algeria where he is at risk for torture. Hassan Almrei is a Convention refugee, originally from Syria who was living in Canada and arrested and detained in 2001 (Duffy and Provosi 2009 535). His certificate was deemed reasonable, and he was initially slated to be deported to Syria (Duffy and Provosi 2009, 535). However, in 2009, Almrei's security certificate was disposed. The judge held that the evidence did not hold up to scrutiny.

the section 9 guarantee against arbitrary detention, the section 10 guarantee of prompt review of detention; the section 12 guarantee against cruel and unusual treatment, and; the section 15 guarantee of equal protection and equal benefit of the law (*Charkaoui I*, para 11).²⁰⁷ In brief, the appellants pointed to the use of *in camera* evidence and *ex parte* procedures where they and their representatives were not present as a violation of their liberty, and as contrary to the principles of fundamental justice (Oriola 2009, 262).

In February 2007, in a unanimous judgment, the Supreme Court ruled that aspects of security certificate provisions under the IRPA did violate the *Charter* and that it did not minimally impair the rights of non-citizens (Oriola 2009, 262). As many have suggested, this decision was significant - it represented the first time that the court had invalidated significant security-related legislation in the post-9/11 period (Macfarlane 2012, 165). Ultimately, the court did uphold the security certificate regime, but mandated changes to its procedures to keep it in step with the *Charter* (Thwaites 2011, 13). In particular, the court found that the right to a fair trial was compromised by extreme secrecy and executive discretion, and that this violation was not justified (Hudson 2010, 173; Larsen and Piché 2009, 208). While the court's findings focused mostly on section 7 violations, they also found that sections 9 and 10 were violated because of the lack of timely review for foreign nationals (indefinite detention without adequate and regular review and psychological trauma associated with uncertainty of indefinite review might constitute cruel and unusual

²⁰⁷ In answering this question, the court considered four main issues: whether the procedures for determining the reasonableness of the certificate were reasonable; whether the detention of permanent residents or foreign nationals under the IRPA infringe ss. 7, 9, 10(d) or 12 of the *Charter*; whether the certificate and detention review procedures discriminate between citizens and non-citizens in a manner contrary to s. 15 of the *Charter*, and; whether the IRPA infringes on the unwritten constitutional principle of the rule of law. The appellants also alleged violations of unwritten constitutional rules (i.e. the rule of law).

punishment), thereby rejecting the government's argument that the process could be justified under section 1 of the *Charter* (Duffy and Provisi 2009, 538-540).²⁰⁸

The court did not, however, accept arguments that the security certificate process violated a ban on indefinite detentions, that it violated the rule of law, or that it violated the equality rights principles of the *Charter* (Duffy and Provisi 2009, 539). On this latter point, the court noted that the process is not discriminatory since only citizens are granted the right to enter, remain in and leave Canada according to section 6 of the *Charter* (Oriola 2009, 263). However, while the court found no substantive breach of section 15, it noted that there were two grounds where the process could be discriminatory.²⁰⁹ First, detention could become indefinite if there was no country to which the state could deport a named person/detainee (Oriola 2009, 263). Related, the process could be discriminatory if the detention of those named in security certificates became unhinged from the goal of deportation (Oriola 2009, 263).

In sum, the court upheld the process in principle but ruled that changes be made. Section 78(g) of the IRPA allowed "for the use of evidence that is never disclosed to the [person named in a security certificate] without providing adequate measures to compensate for this non-disclosure" (*Charkaoui I*, para 139). This section is linked to both the process for determining whether a security certificate is reasonable, as well as for reviewing a related detention, consequently the court found that both procedures violated

²⁰⁸ The Supreme Court of Canada suspended effect of its judgment for one year, giving the government time to effect the appropriate changes to the IRPA. The government did, and the legislation would again be challenged in *Charkaoui II*. While my analysis ends with *Charkaoui I*, it is important to note that the conversation continued in the courts afterwards.

²⁰⁹ As Okafor and Okoronkwo note, the court's refusal to acknowledge this discriminatory difference between citizens and non-citizens is premised on the formality of citizenship and not the seriousness of the risk posed (2003, 42).

section 7. The court suspended its declaration to strike down section 78(g) giving parliament one year to effect the appropriate changes (Oriola 2009, 263). In suspending its declaration to strike down the section, the court did suggest certain procedural changes to mitigate the damage to the procedural rights of those named in security certificates, for example ensuring that judicial review commenced within 48 hours of the initial detention, and that review took place at least once every six months following the previous review (Thwaites 2011, 17).²¹⁰ However, the court did not clarify how long a named person could be detained for the detention to become unhinged from deportation (Thwaites 2011, 17).

6.3 FINDINGS

While there are many ways that one can think through the *Suresh* and *Charkaoui I* decisions, the point of comparison that I am most interested in considering in this chapter is this question of change with respect to the pre- and post-9/11 period. Again, Suresh's security certificate was issued well before 9/11 and all prior Federal Court decisions leading up to the final Supreme Court of Canada decisions were rendered prior to 9/11. And certainly, as Berger suggests, the role of the Supreme Court of Canada *and* the federal court system cannot be underestimated. This is particularly the case given that the federal court system has moved from a court dealing with more obscure jurisdictional matters to an institution handling some of the most pressing social and political issues in contemporary politics (Berger 2006, 105). Specifically after 9/11, the federal government placed a good deal of anti-terrorism legislation in the jurisdiction of the federal court, making the *Suresh*

²¹⁰ The court also wrote positively about the extremely controversial and criticized special advocate system employed by the Special Immigration Appeals Commission in the UK. Eventually the special advocate system would be adopted in the post-2008 version of the security certificate process and it remains highly criticized by advocates for the rights of migrants, refugees, and other foreign nationals.

and *Charakaoui I* cases an interesting site of comparison both internal to the cases themselves, and across the cases as well (Berger 2006, 105). Moreover, as Macklin writes, during moments of real or perceived threat to the integrity of the state and democracy, the role of the judiciary in protect human rights is worthy of specific analysis (2002, 15).

The remainder of this chapter compares the Supreme Court of Canada decisions in *Suresh* and *Charakaoui I* in order to examine the ways in which the regulation of this particularly vulnerable group of non-citizens has stayed the same or changed in the wake of 9/11. In this way, the analysis focuses on identifying both continuities and discontinuities in governance frames, with particular attention being paid to the gaps that I have already identified in the mainstream Canadian liberal citizenship literature. The observations and analysis in the chapter will be clustered into three main categories that reflect the theoretical framework adopted here: governing through exception; governing through crisis and security, and; governing dissent.

6.3.1 Governing through Exception

As demonstrated with the previous two case studies, Foucauldian-inspired governmentality analyses, key critical race interventions, and Agamben's (2005) notion of governing through exception disrupt the liberal temporalities of the mainstream Canadian liberal citizenship accounts. In introducing grounding histories to narratives of citizenship and non-citizenship, these theoretical approaches draw attention to continuities, and highlight how Canadian policy has continually manufactured racialized and gendered zones of exception. The men named in these security certificates, all non-citizen Muslim men in the post-9/11 context, are delinked from their political and legal subjectivity through securitization and the exception. Is this unique, however, to the post-9/11 context? In the

case of security certificates, these theoretical approaches are particularly apt in terms of exploring this overarching question.

As described by Larsen and Piché (2007), Agamben's concept of exceptionality "...emphasizes the interplay between force and law, such that the application of the law can only be understood as an exercise of political power" (16s). Consequently, the state of exception is replete in the presence of law, but law that functions primarily to "legitimize the political actions of the sovereign" (Larsen and Piché 2007, 16). Agamben's analysis looks at these "extraordinary and legally-murky national security policies and practices" as states of exception, where "...sovereign power (bare force) renders aspects of the law inapplicable in response to perceived necessities brought about by a state of crisis" (Larsen and Piché 2007, 1). Drawing from Salter (2006), Larsen and Piché (2009) note that within this frame of analysis, individuals are subject to the law and can be detained under a legal regime, but they are not subjects *in* the law hence they are not afforded rights within that regime (209).

In measurable ways, these dynamics manifest themselves in a proliferation of policies that "...replace due process and democratic procedure with sovereign or executive prerogatives" (Larsen and Piché 2007, 16). This is captured in Richard Ericson's (2007) notion of counter-law, a concept that describes the "use of laws against law" in a state of exception (Larsen and Piché 2007, 1). Ericson proposes that, "New laws are enacted and new uses of existing laws are invented to erode or eliminate traditional principles, standards, and procedures of criminal law that get in the way of pre-empting imagined sources of harm" (Ericson 2007 as cited in Larsen and Piché 2007, 16). Moreover, counter-law is not simply an act of decontextualized sovereign power (Larsen and Piché 2007, 16). Instead, counter-law is specifically positioned within the logic of "neoliberal risk management" in which the

focus if state intervention is precaution as opposed to prosecution (Larsen and Piché 2007, 16). Security certificates are the textbook contemporary illustration law against law, where “...fundamental laws are abrogated in favour of the precautionary principle” (Larsen and Piché 2007, 16).

Certainly, among those studying security certificates that are critical of the regime, there is a widespread consensus that security certificates are products of a normalized state of exception (Larsen and Piché 2009, 208; Bell 2006a, 2000b; Aitken 2008). These theorizations of security certificates within a state of exception framework focus on the “...zone of exceptionality created around the individual through the mechanism, and the resulting experience of indefinite detention” (Bell 2006b; Larsen and Piché 2007, 1). Drawing from Arendt then, this regime of detention, release under surveillance, threat of deportation, and denial of the right to have rights leads effectively to a state of rightlessness for the named person (Wilke and Willis 2008).

Rule of law, procedural justice, and rightlessness

The notion of exception is useful in terms of thinking through a few key continuities across the Supreme Court of Canada’s decisions in *Suresh* and *Charkaoui I*. In the first instance, this notion of a permanent state of exception operates alongside and in concert with the notion of the “normal rule of law”. As described above, the state of exception is not marked by a suspension of the law. These effectively violent detentions are raw exertions of sovereign power that are legitimated precisely through the law, on the grounds of necessity, and through appeals to the rule of law and procedural justice (Larsen and Piché 2009, 209). In both of these judgements, the “normal rule of law” emerges as a “unified political strategy” that the courts reproduce and participate in enforcing (Larsen and Piché 2009, 209).

Certainly, we should not be surprised that the courts reinforce notions of the rule of law. However, the more notable feature of this is the adherence to procedural justice as *the* remedy. It is perhaps through this appeal to procedural justice where you see the strongest continuity across the decisions - a continuity that holds pre- and post-9/11.

In *Charkaoui I*, the court devotes most of its judgment to identifying deficiencies in the statutory requirements for the review of the reasonableness of the security certificate and the detention (Thwaites 2011, 17). The Court in *Charkaoui* said that augmented procedural protections answered substantive *Charter* objections to the indefinite nature of detention under the regime (Thwaites 2009, 702). In this way, this 'landmark' decision does not turn on substantive issues. As a direct result of the decision, none of the appellants were released or moved, there was no discussion of the Suresh exception, and the constitutionality of indefinite detention was left untouched (Thwaites 2011, 17).²¹¹

In *Suresh*, the court is similarly concerned with procedural safeguards or protections, mentioned at least twenty times in the judgment. Here, the court relies on procedural guarantees derived from section 7 of the *Charter* to defuse concerns about the constitutionality of provisions that threaten the rights of non-citizens (Thwaites 2009, 697). For the *Suresh* court, the security certificate process contains "adequate procedural safeguards"; the flaw in the regime is simply one of implementation (*Suresh*, para 2). In fact, the *Suresh* court specifically notes that because Suresh's new hearing is being ordered on procedural grounds, the court is "...not required in this appeal to review the Minister's

²¹¹ By January 2007, four of the five held on post-9/11 security certificates had been released on strict conditions with an average time in custodial detention of almost 6 years (Macklin 2009, 5).

decisions on whether Suresh's presence constitutes a danger to the security of Canada and whether he faces a substantial risk of torture on deportation" (*Suresh*, para 31).

In both cases, the appeal to procedure erases the fact that what is fundamentally at stake in the security certificate regime is the substantive rightlessness of these non-citizens.²¹² In addition, the judgements "...engage with security certificate detention and imprisonment largely in the abstract, discussing concepts such as the justification for indefinite detention and permissible duration of imprisonment without specifically referencing the conditions and context of the KIHC as the carceral space in question." (Larsen and Piché 2007, 5-6). And, if it is vital to the concept of citizenship that non-citizens are vulnerable to removal in a way that citizens are not, how far does this vulnerability extend? What, if any, are the constitutional restrictions on detention to facilitate removal? (Thwaites 2009, 676).

Historically, non-citizens involved in immigration proceedings have been denied by the courts the legal protections afforded to defendants in the criminal justice system (Macklin 2009, 1). This has generally been justified in two ways. First, adopting a "traditional sovereigntist" stance, immigration is framed as a privilege and not a right (Macklin 2009, 1). Second, deportation and removal are characterized as "qualitatively different" than criminal punishment (Macklin 2009, 1). In this way, deportation is not characterized as an intrinsic "deprivation of liberty" that implicates the security of the person (Macklin 2009, 1). For non-citizens, this premise is clearly flawed, given that they

²¹² In its first judgment on section 15 of the *Charter*, *Andrews v. Law Society of British Columbia*, the SCC declared non-citizen status to be a ground of discrimination analogous to those explicitly set out in the section (Thwaites 2009, 674). The implication here being that from the outset, the differential treatment of non-citizens, who were described as a "discrete and insular minority", could be subject to equality rights analysis under the *Charter* (Thwaites 2009, 675).

are “...more vulnerable targets of state surveillance and sanction than citizens” (Macklin 2009, 1). For the state, deportation proceedings as framed within an immigration context as more appealing in that there are fewer rights to be concerned with, hence fewer impediments in enforcing regulations (Macklin 2009, 1).

On the one hand, the IRPA reflects a fundamental distinction between inalienable human rights and citizenship rights (Oriola 2009, 266). As Oriola explains, “The right to know the case against you, to have a fair hearing in order to defend yourself, the right to the dignity of the human person” are inalienable human rights and are not tethered to state-based citizenship (2009, 266). In both *Suresh* and *Charkaoui I*, those named in the certificates are still positioned in the first order as threats, not as rights bearers (Wilke and Willis 2008, 28). And those named in security certificates become very real exceptions in this zone of ambiguity between human rights and citizenship rights because ultimately, the state *is* a guarantor of such rights (Oriola 2009, 266).

This violence and rightlessness becomes possible because these are non-citizens²¹³. And to be clear, the losses incurred by those who are rightless are indeed violent. Drawing on Arendt, Oriola explains that these involve losses related to home - having no distinct place in the world and being unable or inexperienced at finding a new one (2009, 266). There is also an absolute loss of protection by any government or any state, and this lack of legal subjectivity in turn can lead to an inability to claim or inhabit the legality of international treaties and agreements which are ultimately a function of sovereign states (Oriola 2009,

²¹³ While beyond the scope to address fully here, in *Charkaoui I*, the Supreme Court’s conclusion that the procedure was non-discriminatory is troubling given that the regime applies only to non-citizens of Canada and not to Canadian citizens under similar suspicion (Duffy and Provisi 2009, 547). In fact, as Duffy and Provisi explain, the government has packaged this distinction as a selling point (2009, 547). Applying a formalist lens, the Supreme Court said that these provisions of the IRPA are not discriminatory since only non-citizens are subject to immigration legislation.

2006). Consequently, this is not simply the inversion of having citizenship, which might be understood as the loss of life, liberty and pursuit of happiness (Oriola 2009, 266). Citing Arendt, these individuals no longer belong to any community: “Their plight is not that they are not equal before the law, but that no law exists for them” (Oriola 2009, 266). Ultimately, this commitment to human rights depends on national/citizenship rights, meaning that these rights sustain each other (Oriola 2009, 266). This reinforces Razack’s observation that immigration law, by and large, remains outside of a human rights regime (People’s Commission 2007, 18). This is a zone of exception where courts are willing to accept that there is and should be a fundamental distinction between non-citizens and citizens in terms of the rights they can possess (People’s Commission 2007, 18). Ultimately, the subject position available to those marked by security certificates - non-citizen, outsider, racialized other, alien - cannot sustain both of these dimensions.²¹⁴ They are either threats or rights bearers.

For example, in *Suresh*, the Minister issued a “danger opinion” declaring Suresh to be a danger to the security of Canada. In doing so, this granted the Minister the discretionary power to return Suresh, a Convention refugee, to a country where his life and freedom would be in jeopardy - he would be at risk for torture. So, as a refugee, Suresh would become an exception to the protections afforded to refugees under international law.²¹⁵ In its reasoning, the court very explicitly diminishes the authority of international law, noting that even if

²¹⁴ As Oriola describes it, “Those under security certificates are thus in a state of liminality and rightlessness....they are caught in the web of a lack of sovereign that can guarantee their rights.” (2009, 266).

²¹⁵ The *International Covenant on Civil and Political Rights* and the *Convention Against Torture* prohibit deporting an individual to torture; Canada has ratified both of these conventions effective 1976 and 1987, respectively (Macklin 2002, 17). As Eliadis notes, however, article 14 of the *International Covenant on Civil and Political Rights* permits derogations from particular civil and political rights in the case of public emergencies (2011, 3). Derogations are not permitted if they are based on the grounds of race, colour and religion (Eliadis 2011, 3).

Canada has ratified international conventions, if those conventions are not formally incorporated into Canadian law, they are not binding (Macklin 2002, 18). The *Charter*, not international law is our normative standard, meaning that state authorities and domestic law configure a subject's entry into the legal order (Macklin 2002, 18).

In addition, the court says that in assessing whether section 7 rights have been breached, the court must engage in a balancing exercise between the state's interest in deporting individuals who are deemed to be threats and an individual's interest in not being deported to torture (Carver 2002, 469; *Suresh*, para 47). Many of the factors to be weighed will be constant from case to case, for example norms of international law, however other factors will be case specific (Carver 2002, 470). Consequently, the court adopts a case-by-case approach, and in doing so reinforces the Minister's authority to decide to deport an individual to torture in exceptional circumstances, all the while avoiding specifying what the nature of these circumstances might be (Carver 2002, 470).

Consequently, international law and conventions against torture do not ultimately save Suresh. What saves Suresh from being his own exception is that the court finds that he was denied certain procedural rights that are already built into the security certificate process. Specifically, because Suresh had met the threshold and provided enough evidence that he may be at risk of torture upon deportation, a whole series of procedural guarantees were triggered, but ultimately not met in his case.²¹⁶ Consequently, the legislation itself

²¹⁶ If a refugee has met the threshold of establishing his/her case that there may be a risk of torture upon deportation, the following procedural protections apply: a refugee "...must be informed of the case to be met. Subject to privilege and other valid reasons for reduced disclosure, the material on which the Minister bases her decision must be provided to the refugee. The refugee must be provided with an opportunity to respond in writing to the case presented to the Minister, and to challenge the Minister's information. The refugee is entitled to present evidence and make submissions: whether his or her continued presence in Canada will be detrimental to Canada under s.19 of the act; the risk of torture upon return; and the value of assurances of non-

remained constitutional, the guarantees within the legislation were not met, and Suresh was ordered a new deportation hearing.

In *Charkaoui I*, we see a similar neglect of substantive issues. As Thwaites argues, the court's ruling is procedural, meaning that the court does not address the substantive rights challenges engaged in the case: "...whether the detention in itself infringed the right to liberty and/or whether it was justified in the circumstances, whether it amounted to cruel and unusual treatment or punishment, or whether it was discriminatory" (Thwaites 2011, 29).²¹⁷ Consequently, the court in *Charkaoui I* similarly focuses on procedural justice, finding that the procedure for the judicial approval of certificates and deportation to be unconstitutional. As in *Suresh*, the court engages in a balancing exercise, noting that the security certificate regime is specifically "...designed to handle 'tension' between issues of procedural fairness in deportation proceedings and the need to protect the public from a threat of terrorism" (Duffy and Provisi 2009, 537). According to the court, this is a fundamental tension at the heart of modern democratic governance, and *this* is at the core of the security certificate process (*Charkaoui I*, para 1). And, just as in *Suresh*, the *Charkaoui I* court notes the possibility that rights infringements can be identified on a case-by-case basis (Thwaites 2011, 17). In essence, the court leaves "...the legality of indefinite detention of non-citizens and deportation to torture to be resolved on a case-by-case basis" when these are substantive issues concerning those named in the certificate (Thwaites 2011, 13). Here the remedy offered by the courts is adding a layer of procedural rights to the security certificate

torture by foreign governments. The Minister must provide written reasons for her decision dealing with all relevant issues" (*Suresh*).

²¹⁷ Thwaites notes that direct engagement with the substantive rights challenges might have resulted in a radical transformation of the regime *or* detailed justification of it (2011, 30).

process, a remedy you eventually see with a special advocate system being adopted in subsequent incarnations of the IRPA.

To be clear, however, procedural remedy or procedural justice does not mean due process in any of the judgements.²¹⁸ If due process means that individuals possess rights and freedoms within a legal system that protects them from repressive state action, and that the state guarantees that they will enforce and respect these rights, the *Suresh* and *Charkaoui* courts are consistent in that due process is not triggered for non-citizens subject to security certificates (People's Commission 2007, 23). In this sense, there is no liberal social contract to which these non-citizens are privy. This is particularly important given the neglect the court pays to where these prisoners are - whether provincial institutions or the Kingston Immigration Holding Centre (KIHC). As Larsen and Piché write, the KIHC "...introduces a new authorization for the incarceration of bodies, derived not just from procedural justice, but from the internal policing of the sovereign border. No process associated with the traditional criminal justice system can account for KIHC, and no criminal sentencing decision can result in an individuals' incarceration in the KIHC facility" (Larsen and Piché 2007, 11).

The fixation on procedural justice or procedural rights is not as coherent across the judgements with respect to the framing of the degree of deference or discretion the courts grant the Minister. The impact of this discretion is particularly pointed in *Suresh*. Here the court adopts a "pragmatically relativist understanding of torture" (Okafor and Okaronkwo 2003, 43). For the court, torture is mostly "evil", but the court never completely prohibits the condoning of torture through the security certificate process (Okafor and Okaronkwo

²¹⁸ This neglect of due process is particularly troubling given that with the amendments brought by the ATA, the *Criminal Code* is equipped to deal with terrorism (People's Commission 2007, 40).

2003, 43). The decision actually starts quite forcefully, noting that torture finds “no condonation in our *Criminal Code*”, that “Canadians do not accept torture as fair or compatible with justice”, that the “prospect of torture induces fear and its consequences may be devastating, irreversible, indeed, fatal”, that torture is an “instrument of terror and not of justice” (*Suresh*, para 50-51). But, the court moves away from these strong statements to a balancing exercise with national security and a form of relativism with respect to human rights (Okafor and Okaronkwo 2003, 45).

Moreover, in *Suresh*, the court did not require that any government wishing to deport an individual to face torture invoke the notwithstanding clause, or justify the infringement through section 1 of the *Charter* (Thwaites 2009, 698). As Thwaites explains, the court positions the exceptional discretion to deport to torture within the section 7 analysis (Thwaites 2009, 698). By requiring the government to justify the infringement via section 1 of the *Charter* would demonstrate that the legislature had considered this precise issue; it would “...present the issue as one in which a rights violation was authorized on the basis of prudential considerations” (Thwaites 2009, 698-699). Moreover, by requiring a section 1 justification for the infringement of the right, subsequent decisions to deport detainees on the risk of torture would be exceptional and a “departure from rights jurisprudence” (Thwaites 2009, 699).

As Okafor and Okaronkwo write, ultimately the court is saying that in those exceptional cases where an individual is deported to torture “...the person’s plans or actions that threaten Canada’s national security are so bad, and the person is therefore so bad herself, that Canada would facilitate her torture” (2003, 45). Moreover, the *Suresh* decision is notable in that in weighing these profound questions, the court is clear that the

appropriate standard to adopt by the court is the highest level of deference to the Minister's discretion (Carver 2002, 47). Agreeing with the Federal Court of Appeal, the Supreme Court notes that the Minister's discretion can only be set aside if it is "...patently unreasonable in the sense that it was made arbitrarily or in bad faith, it cannot be supported on the evidence, or the Minister failed to consider the appropriate factors. The court should not reweigh the factors or interfere merely because it would have come to a different conclusion." (*Suresh*, para 29).

The impact of this relativism combined with the adherence to procedural remedies can be most fully grasped when one considers the *Ahani* judgment which was issued on the same day as *Suresh* and on similar grounds (Coutu and Giroux 2006, 326). In brief, Ahani was accepted as a Convention refugee in Canada in 1991, but subsequently, Canadian authorities believed that he was acting in association with the Iranian Minister of Intelligence and Security which the federal government considered a terrorist organization (*Ahani*, para 1). Ahani was interrogated by CSIS, issued a security certificate by the Minister of Citizenship and Immigration and the Solicitor General, arrested on June 17 1993, and declared inadmissible to Canada as a member of a terrorist organization and as one there are reasonable grounds to believe has engaged or will engage in acts of terrorism or violence that "would or might endanger the lives or safety of persons in Canada" (Coutu and Giroux 2006, 326; Macklin 2002, 17). Ahani was kept in custody while he awaited deportation, and he claimed that if he was deported to Iran, he faced a substantial risk of torture (Coutu and

Giroux 2006, 326; Macklin 2002, 17). Ahani claimed that if he was deported to Iran, he faced a substantial risk of torture.²¹⁹

According to the Supreme Court of Canada, there were only two questions a reviewing court was charged with considering. First, is the person named in the certificate a danger to Canada, and second, would the person named in the certificate face a substantial risk of torture if deported (Coutu and Giroux 2006, 327). On the first question, as articulated in *Suresh*, the standard of review is one of “patent unreasonableness”; the Minister would have had to make a decision arbitrarily, in bad faith, a decision that would not be supported by evidence, or did not take into account the appropriate factors (Coutu and Giroux 2006, 327). On the second question, the standard for deference is also as per *Suresh*. For Ahani, the Supreme Court of Canada found that the Minister’s decision that Ahani constituted a danger to Canada was reasonable and that Ahani had not met the standard for proving that he faced a substantial risk of torture if deported (*Ahani*, para 20). For this reason, the court noted that the procedural rights that Suresh was entitled to did not ‘kick in’ for Ahani, who was subsequently deported to Iran.

While there is some degree of commitment to deference in the *Charkaoui I* decision²²⁰, there is a substantive shift from *Suresh* and judges are posited as more active participants in the latter decision. The court notes that judges working under the security certificate process “have eschewed an overly deferential approach, insisting on a searching examination of the reasonableness of the certificate on the material before them” (*Charkaoui*

²¹⁹ Thwaites notes that since *Suresh*, case law has not demonstrated that the courts would justify the *Suresh* exception (2009, 700).

²²⁰ For example, the court notes that in trying to achieve its objective, “Parliament is not required to use the *perfect*, or least restrictive, alternative” (*Charkaoui I*, 85). Moreover, deference is still owed to Parliament in terms of its legislative choices (*Charkaoui I*, 85).

I, para 38). Moreover, the court notes that judges are correct to do so. The court goes onto explain that the language of the IRPA justifies an “active role for the designated judge”, that the IRPA “...does not ask the designated judge to be deferential, but, rather asks him or her to engage in a searching review.” (*Charkaoui I*, para 39). In fact, this “non-deferential role of the designated judge” strengthens the regime in that the judge will not be “perceived to be in the camp of the government” (*Charkaoui I*, para 42). The court goes onto criticize that unlike current standards under the *Canada Evidence Act*, where judges exercise considerable discretion in deciding whether “potentially injurious or sensitive information” should be disclosed, no similar discretion exists under the IRPA (*Charkaoui I*, para 77).

This shift in terms of deference *does* seem linked, at least in terms of proximity, to 9/11. In *Suresh*, the Supreme Court does link the limited scope of the reviewing court to the events of 9/11. The court specifically cites the British House of Lords’ ruling in *Secretary of State for the Home Department v. Rehman*, which stressed the need for the judiciary “...to respect the decisions of ministers of the Crown on the question of whether support for terrorist activities in a foreign country constitutes a threat to national security.” (*Suresh*, para 33). Later in the decision, the court specifically notes that the support of terrorism abroad could adversely impact Canada’s security (Coutu and Giroux 2006, 328). Specifically, “International conventions must be interpreted in the light of current conditions. It may once have made sense to suggest that terrorism in one country did not necessarily implicate other countries. But after the year 2001, that approach is no longer valid” (Coutu and Giroux 2006, 328).

Finally, returning to another point of consistency across *Suresh* and *Charkaoui I* is the way in which the rule of law focus on procedural adherence and the ‘correct’ application of

the law ultimately require that one sustain a liberal presumption that subjects are positioned equally before the law. Yet, as countless scholars have demonstrated, the intersecting immigration and national security apparatus function on the basis of pre-emptive exclusion, selectively positioning some groups of non-citizens as other, alien, terrorists, or threats (Aiken 2000, 55). These are also the same people whose justice claims are most easily and most often ignored (Aiken 2000, 55). So, we know that the presumption that subjects are positioned equally before the law is simply not the case, and anti-terrorism or counter-terrorism policies do not have a uniform effect on individuals or groups of individuals. Non-citizens, persons with dual citizenships from certain states, Muslims, Arabs, those perceived to be Muslim and/or Arab, racialized minorities, and men are all individuals and groups who are disproportionately impacted by increased surveillance, preventative detention, indefinite detention, and things like extraordinary rendition (Wilke and Willis 2008, 33).

As Razack (2007) has described with specific reference to the Secret Trial Five, these men are not simply the victims of racial profiling: "...their Arab origins, and the life history that mostly Arab Muslim men have had, operate to mark them as individuals likely to commit terrorist acts, people whose propensity for violence is indicated by their origins" (6). They are characterized as "Islamic terrorists" that are governed by religion, not rationality (Razack 2007, 6). The inference is clear – these men are marked by an *inherent* capacity for violence (Razack 2007, 6). Race becomes crucial to this pre-emptive punishment and the possibility for indefinite detention (Razack 2007, 6; Duffy and Provisi 2009, 549). So, the racialization of detainees and the actual mechanisms of the security certificate process, assign the detainee a tenuous ontological status that is deeply racialized, and one that is not acknowledged in the courts, and perhaps it cannot be.

The appeal to the rule of law and procedural justice masks the deeply gendered and racialized nature of the security certificate regime, a fact that is certainly not recognized in either Supreme Court decision, or in any of the federal court rulings. In fact, the decisions support a deeply racialized regime, particularly in *Suresh* with the continued commitment to ministerial discretion and deference. As David Matas has stated, “We do not need racist laws to have racial discrimination in immigration; all we need is unlimited discretion.” (People’s Commission 2007, 16). Race and religion are mentioned only in one context in both Supreme Court judgments, in terms of identifying the risk of persecution that a “detainee” may face if deported to his or her home country. This is an *external risk*. Islamophobia, ethnicity, Muslim, Arab, racism, inequality - none of these words are present in either decision. This analysis or this context is simply missing, and this is a big and productive erasure.

As Wendy Chan (2005) explains, moral regulation is inextricably linked to practices of preventative detention which mark bodies of suspicion, threat and risk, all of which are fully wound up with processes of racialization (160). The racialized moral regulation of immigrants has been read through with notions of civility, self-regulation, piety, industry, purity, and self-control (Chan 2005, 160). The departure here is that the perceived self-regulation, piety, and self-discipline of Arabs and Muslims (which are invariably always collapsed onto each other) is the ‘wrong’ version, becoming one of the critical components marking their suspicion (Chan 2005, 158). Larsen and Piché (2009) reinforce this, noting that this forecasting of insecurity shapes the “intelligence” gathered by agencies like CSIS which is less about compiling evidence of past criminal acts and more about predicting future behaviour (209-210). In this moment of naming an individual as a threat, this constitutes the birthing of a terrorist, a process made possible by racialization or what

Razack has termed race-thinking (Larsen and Piché 2009, 209). The enemy is marked by a body of 'risky' possibility, ultimately begging the question of how and when one can cease to be considered a threat (Bell 2006b, 70).

So, in both of these cases, the material racialized reality of security certificates is erased - and this is not a question of not knowing that the process is underscored by racialization, but rather a holding onto to a particular way of knowing. In very material ways, we see that the racialized nature of security certificates is even built into the infrastructure of the regime, a point developed quite compellingly by Larsen with respect to the Kingston Immigration Holding Centre (KIHC). As Larsen and Piché (2007) describe, "In these exceptional times, for reasons of national security, and as the result of a peculiar confluence of laws, policy, and powers, Correctional Services Canada has found itself in the business of immigration detention" (1).

The KIHC, often termed Guantanamo North, was built in 2006 on the grounds of the Millhaven Institution, a maximum security prison, located in Ontario, 2.5 hours away from Toronto; There is no public transportation to the "holding centre" (People's Commission 2007, 56-57).²²¹ While the KIHC was quietly closed in 2011, the prison entailed a 3.2 million dollar investment, in addition to its 2 million dollar annual operating cost, a commitment which seemed to signal the government's intention to maintain the security certificate process (People's Commission 2007, 56). The KIHC was built specifically to "hold", not imprison, individuals named in security certificates. There are 6 cells in the KIHC and it has been described by some as "just a nicer cage" (People's Commission 2007 56 - citing Matthew

²²¹ The location of the prison had a profound impact on the families of detainees, already struggling with social assistance, time restrictions, and lack of money.

Behrens of the Campaign to Stop Secret Trials). Shortly after being transferred to KIHC, Jaballah, Mahjoub and Almrei went on a hunger strike protesting the conditions of their detention (People's Commission 2007, 57).

Just as the security certificate process and the persons named in security certificates operate within a zone of exception, the KIHC is similarly exceptional. KIHC is "...characterized by a series of contradictions and ambiguities that effectively create a zone of uncertainty, where legal norms and standards of criminal jurisprudence are suspended, rendered inapplicable, or are displaced by administrative immigration procedures under the IRPA" (Larsen and Piché 2007, 1). As Larsen explains, it occupies an "ambiguous place created by the overlapping mandates" of the Correctional Service of Canada and Canada Border Services Agency (Larsen 2008, 31). Those "held" within KIHC were similarly exceptional, having special status which restricted their access to the resources that would normally have been available to them had they been charged and convicted in a criminal proceeding, hence were "normal" inmates in a maximum security prison (Larsen 2008, 31). These men are not held for rehabilitation, there is no expectation that they will be reintegrated into society -- hence, they have no access to programming and the like (Larsen 2008, 31). Yet, despite the fact that they have no access to the same rights as other inmates who are imprisoned, in KIHC, these "detainees" are subject to the modes of surveillance, observation and control of the prison industrial complex (Larsen 2008, 31). Who occupied the six cells at KIHC? KIHC was built for a specific prisoner - the Muslim male. As previously noted, staff at the KIHC received extensive "cultural training" and allowances were made within the scope of operating guidelines for religious practices, for example the provision of halal food. In addition, Larsen and Piché (2009) write that in one draft document on the

KIHC, statements were made regarding the spatial positioning of detention units to facilitate praying in a north-east direction (222). That the KIHC is not mentioned in the *Charkaoui I* ruling is problematic, given these “unique characteristics, conditions, and institutional relations” and their impact on those held on certificates (Larsen and Piché 2007, 6).

In sum, the rule of law as procedural justice takes us to a space of citizenship or non-citizenship regulation where rights are grants arising from the state’s discretion; rights are not inherent to the human status of these subjects (Wilke and Willis 2008, 27). This is a space where discretion can be managed properly through procedural safeguards, whether that discretion is held by Parliament and the Minister, as is the case for the *Suresh* court, or whether that discretion is held by federal court judges, as is the case for the *Charkaoui I* court. In either case, the discretion is not informed by a substantive understanding of the racialized context, by a substantive understanding of the conditions of the detainees, nor is it informed by a substantive commitment to human rights. Instead, the courts opt for a sort of constitutional minimalism or a judicial approach which prefers “narrowness over breadth and shallowness over depth” (Thwaites 2011, 17). Put differently judicial minimalism is where courts “...avoid ruling on the legality of an uncircumscribed legal power (in this case, a statutory power to detain with no temporal limitation)” (Macklin 2009, 5). Instead, the courts proceed incrementally, “...offering the prospect of relief if and when the exercise of legal power in a particular case strays beyond constitutional limits” (Macklin 2009, 5). On the issue of narrowness, both courts adopt a case-by-case approach to the key substantive issues implicated in the case, and on the shallowness front, both courts fail to elaborate key gaps, such as the basis for the courts conclusion that a detention remain connected to deportation, and when it would cease to be hinged together (Thwaites 2011, 18). Moreover,

in both *Suresh* and *Charkaoui I*, there is a tension between citizens and non-citizens, where for non-citizens, rights themselves are matters of discretion (Wilke and Willis 2008, 27).

Consequently, across *Suresh* and *Charkaoui I*, the appeal to procedural justice simultaneously papers over and legitimates the fundamental violent rightlessness that the security certificate regime upholds (Wilke and Willis 2008, 28). This process accepts that non-citizens can be targeted on the basis of predicted future conduct or presumed dispositions and it remains unchallenged by the courts either before or after 9/11 (Wilke and Willis 2008, 38). Ultimately, the legitimating work of procedural justice maintains the security certificate process and “...encourages the translation of societal threat perception into legal exclusion orders” (Wilke and Willis 2008, 38).

6.3.2 Governing Through Crisis and Security

Unlike the previous case studies analyzed, formal notions of security clearly run through this case study. As such, the tendency for mainstream liberal Canadian citizenship scholarship to focus on substantive belonging, nationalism, and ‘soul-searching’ around identity means that at a minimum, the liberal theorists of differentiated citizenship are ill-equipped to capture the meaning of this case study in thinking about the historical regulation of citizenship and non-citizenship in Canada. Security, as a foundational component of the liberal social contract tradition, is approached in quite narrow terms by the liberal theorists of differentiated citizenship, leaving a profound gap that necessarily impacts how citizenship change is described.

Security is an exceedingly powerful form of governance given that notions of security or national security are far from static. Security is also complex and multilayered, at times referring to an objective goal, a commodity that can be exchanged, or a subjective state or

feeling (Larsen 2006a, 48). Deeply contextual, national security has been used to legitimize a whole host of exclusionary policies which have targeted a variety of marginalized groups of people as threats to the nation. Indigenous people, racialized non-citizens, communists, socialists, anarchists, leftists, black activists, and sexual minorities, among others, have all been variously considered security risks (People's Commission 2007, 13). The aforementioned list of perceived security risks is notable because they constitute historically variable notions of common sense that are ideologically grounded, and rooted in the power of the state (Larsen 2006a, 49). Without a doubt, these partially flexible and elastic notions of national security have had a direct impact on immigration policies, positing threatening outsiders in opposition to 'legitimate' citizens (People's Commission 2007, 13). This, in and of itself, being far from straightforward given that who constitutes a 'legitimate' citizen in a settler colonial context is highly selective.

As Gary Kinsman has explained, those who study national security in Canada generally adopt one of two positions. First, that national security is only problematic in terms of implementation, or second that there is something integrally wrong with national security (People's Commission 2007, 17). Regardless, of the position that one adopts, in thinking about the ways in which citizens and non-citizens are regulated through security, certain questions tend to remain off the mainstream liberal citizenship script. Most notably, whose national security is at stake?

If the court can affect such a profound erasure through its adherence to procedural justice as shown in the previous section, the court is likely also advancing a very particular version of who or what is being threatened, who or what is the subject to be secured, and what the impact of the threat is. Certainly, increasing securitization of migration and

citizenship extend far beyond the borders Canada. That national security concerns are used as a means to justify the narrowing of immigration through strategies like interception, removal or detention is part of a longer historical lineage and a larger global political economy of migration (People's Commission 2007, 49). By adopting an analysis that is conscious that the production of and insistence on insecurity or the existential threat is integral to the ways in which citizenship governs, we see some surprising continuity across the two cases studied here, alongside some minor shifts in the court's reasoning, suggesting that there is a historical context to security, but also elasticity as well. What remains unclear is how these shifts correlate specifically to 9/11.

What or who is the threat?

Dobrowolsky (2007) describes securitization as the "adoption of more conventional notions of security where the primary concern is protecting the nation state." (634). Framed differently, a securitization approach enables us to consider the ways in which particular subjects (understood broadly) are framed and regulated as security issues; they are constructed as a matter of survival for political communities, and as such are often evicted from the realm of the political. Progressive securitization has fostered a shift away from broad liberal ideas such as human security to more realist notions of national security (Dobrowolsky 2007, 630). This has been a movement from people-centered to state-centered security (Dobrowolsky 2007, 630)²²². Here the focal point moves from concerns

²²² Dobrowolsky refers to this as a movement away from "thicker" notions of security which were more predominant in the 1990s (2007, 634). For example, the United Nation's Development Program's human security adopted a varied and multidimensional approach to security which included economic security, environmental security, food and health security, personal security and community security (Dobrowolsky 2007, 635).

about danger, deprivation, fear and needs of individuals, to a conception that the state must be protected by force (Dobrowolsky 2007, 630)²²³. Citing Rodriguez and Blace, Dobrowolsky (2007) notes that this shift has been accompanied by “hyper-racialized surveillance, forms of punishment under the guise of ‘national security’ and the ever-increasing naturalization of militarization” (630).

What is being secured in the *Suresh* and *Charkaoui I* decisions? In *Suresh*, the court is focused quite specifically on formal security interdependence or this conception that the security of states is intertwined (Okafor and Okoronkwo 2003, 37-38). The court notes however that not all threats to the security of the state would have an impact on Canada, meaning that a security threat to Canada may be direct or indirect, but there must be a “serious possibility of adverse effect to Canada” (As cited in Okafor and Okoronkwo 2003, 38). This notion of security interdependence is linked quite directly to 9/11 in the decision. The court notes that the context has changed since 2001. Namely, a country’s national security can now be impacted by the support of terrorism abroad (*Suresh*, para 87). The imprint of 9/11 on the judgment is such that the nature of the threat is no longer one that is discriminate.²²⁴ This is despite the fact that historically, threats to Canadian national security have been marked by a careful and discriminate selection of targets (Okafor and Okoronkwo 2003, 38). Instead, the image provided by the court is one where human sources

²²³ Keeble (2005) suggests, however, that this supposedly different focus on human security may have been more superficial than real (5). Keeble writes that the focus on security and Lloyd Axworthy’s focus on humanity security have invariably been on the preservation of Canada’s economic position, and in fact function as legitimizing discourses in a neo-liberal world (2005, 5-6).

²²⁴ This notion of threat finds echoes in Canada’s first national security policy, released in 2004. Larsen (2006) explains that Canada adopts an “all hazards” approach to national security, focusing not simply on terrorism, but pandemics, natural disasters, bioterrorism, and human induced disasters (2006, 12). The practical impact of this broadening has seen an expansion to the security mandate of a variety of local law enforcement agencies, but other groups such as transit authorities, the Canadian Border Services Agency, and Health Canada (Larsen 2006, 12).

of threat are “indeterminate purveyors of terrorist violence”; they can attack or harm a country at any time (Okafor and Okoronkwo 2003, 38). The court notes:

Whatever the historic validity of insisting on direct proof of specific danger to the deporting country, as matters have evolved, we believe courts may now conclude that the support of terrorism abroad raises a possibility of adverse repercussions on Canada’s security. International conventions must be interpreted in the light of current conditions. It may once have made sense to suggest that terrorism in one country did not necessarily implicate other countries. But after the year 2001, that approach is no longer valid. (*Suresh*, para 87).

Because of the “global transport and money networks that feed terrorism abroad”, and the fact that “terrorism itself is a worldwide phenomenon”, “preventative or precautionary state action” may be justified, and Canada can enhance its national security by reciprocal cooperation with other states (*Suresh*, para 88). Consequently, given these ‘new realities’, the court cautions against insisting on “direct proof of a specific threat to Canada” when considering whether someone constitutes a danger to the security of Canada - this would set the bar “too high” (*Suresh*, para 88).

Similar to the court’s more constitutionally minimalist approach, this understanding of security interdependence is formalist, as opposed to substantive. First, for example, this raises the question of the nature of the threat posed by Suresh, where the historical reality is that the armed activities of the LTTE are undertaken solely within Sri Lanka (Okafor and Okoronkwo 2003, 38). Second, as Macklin (2009) writes, this “...preference for deportation also rests on a curiously parochial premise: despite repeated claims by states that terrorism is a problem of global dimensions, the deportation as remedy presupposes that removal of a dangerous person from one territory to another will neutralize the terrorist threat posed by that individual” (1). Third, as Okafor and Okoronkwo suggest, the court does not consider that Canada’s national security

...may be much more dependent on a just, and therefore durable, resolution of certain civil conflicts abroad, and that such a durable solution will be unlikely if, by deporting top members of the armed opposition to the same country that these rebels fled in fear of persecution, Canada will have effectively intervened in that civil conflict on the side of the *status quo*, on the side of the very governments that Canada itself has often viewed as guilty of atrocities against the rebellious population (2003, 39).

So, while the court states that returning a refugee under s.53(1)(b) of the IRPA to torture requires “evidence of a serious threat to national security”, the court reiterates that the phrase “danger to the security of Canada” must be interpreted “flexibly” and it must be given “fair, large and liberal interpretation” (*Suresh*, para 89). This interpretation enters into the court’s understanding of international treaty norms, which are paid a significant degree of attention in the judgment from paragraphs 59-75. The court notes that international law rejects deportation to torture, even when national security interests are at stake, and that this is a norm which informs the principles of fundamental justice in our *Charter* (*Suresh*, para 75). Despite this, the court suggests that these norms are not binding unless they are incorporated into Canadian law by enactment (*Suresh*, para 60). Consequently, the court characterizes international law not as international obligations, but as principles of fundamental justice which can be derogated from (Coutu and Giroux 2006, 324). In this way, in this commitment to security interdependence, you *do* see a compression of physical space with respect to the characterization of threats and security after 9/11 - a compression that is not apparent in the pre-9/11 federal court rulings in *Suresh*.

Discursively, at first glance, both *Suresh* and *Charkaoui I* begin with broadly similar statements about the need to balance national security with human rights, but there is actually a qualitative difference in the language of the two judgements. Again, the imprint of 9/11 is quite clear in the opening of *Suresh*. The court talks of the “manifest evil of terrorism

and the random and arbitrary taking of innocent lives, rippling out in an ever widening spiral of loss and fear” (*Suresh*, at para 3). For the *Suresh* court, the crux of the issue is ensuring that governments have the legal tools to meet this challenge. This necessity must be weighed against protecting our values - “liberty, the rule of law, and the principles of fundamental justice” - in a democratic society. (*Suresh*, at para 4). What needs to be protected? Not the rights of *Suresh*, this is about protecting *our* values: “...it would be a Pyrrhic victory if terrorism were defeated at the cost of sacrificing our commitment to those values.” But for a reference to governments expressing “the will of the governed”, there is no mention of citizens in *Suresh*; this is about protecting Canadian values, as well as “effectively [combating] terrorism” and meeting the requirements of not just our Constitution but our “international commitments”, international human rights norms notwithstanding (*Suresh*, at para 4).

Charkaoui I is markedly different in this regard. The responsibility of the government is “...to ensure the security of its citizens” (*Charkaoui I*, at para 1). Here, the stress is on Canada as a constitutional democracy that is accountable and acts in accordance with its constitution and the rights and liberties guaranteed therein (*Charkaoui I*, para 1). Yet, similar to the judgment in *Suresh*, the subject of these certificates - the men named whose fundamental freedoms are at stake - is displaced, or removed. The tension at play in *Charkaoui I* is how to balance security with “accountable constitutional governance” (*Charkaoui I*, at para 1).

Yet, it warrants remembering that in both of these cases, the court is dealing with the material realities of those being subject to state-imposed violence and deprivation. Yet, these are not the security issues at stake; these are sifted out. *Charkaoui I* does in part

gesture towards the humanity of those named in security certificates, remarking that in situations where the “...detainee has no hope of release or recourse to a legal process to procure his or her release may cause psychological stress and therefore constitute cruel and unusual treatment.” (*Charkaoui I*, at para 98). Yet, neither judgment seems deeply concerned with the fundamental insecurity these subjects face; their precarious status is not the issue. For example, in *Charkaoui*, extended periods of detention are found to not violate the *Charter* if the detention remains hinged to deportation. But, what if the detainee cannot be deported because of risk to torture, or what if the Suresh exception is not triggered? The court does not provide guidance on this because the central concern is national security, and these non-citizens are not part of the nation (Wilke and Willis 2008, 37).

Bonnie Honig’s notion of foreignness is helpful here. Here, Honig notes the “...symbolic marker that the nation attaches to the people we want to disavow, deport or detain because we experience them as a threat” (As cited in Wilke and Willis 2008, 39). The court’s version of foreign threat is one in which the threat is always posed to ‘us’, and in that, there is no analytic room for the court to consider the racialization of threat, and this is clearly a problem. This certainly coincides with public discourse where the common sense agreement is that on matters of security, foreigners are not entitled to the same levels of protection from the judicial system, even if human rights violations are at stake (Crépeau and Jimenez 2004, 610). For example, in *Charkaoui*, the court asserts that the threshold for a breach of section 12 of the *Charter*, the guarantee against cruel and unusual treatment, is high. It is not detention itself or the length of detention that is objectionable (*Charkaoui I*, para 96). Detention is only cruel and unusual in a legal sense if it violates accepted norms of treatment. (*Charkaoui I*, para 96). And this is a standard that is articulated time and again in

the Supreme Court of Canada decision in *Suresh*, as well as in the federal court decisions. In rejecting Suresh's appeal, McKeown J. of the Federal Court noted that Suresh's expulsion to Sri Lanka would not "shock the conscience" of Canadians; this is the standard for the test of constitutionality under section 7 of the *Charter* (Suresh, para 18). Again at the Federal Court of Appeal, Robertson J.A. reiterated this standard, but added more by absolving and neutralizing the state:

Expulsion of a refugee who is a danger to the security of Canada would not violate the sense of justice or "shock the conscience" of most Canadians, notwithstanding that the refugee might face torture on return, because *Canada would be neither the first nor the last link in the chain of causation leading to torture, but merely an involuntary intermediary.* (Suresh, para 21- emphasis added)

In terms of violating accepted norms of treatment, whose norms, and the norms applied to which subjects?

The decontextualized account of the court cannot account for the fact that well before 9/11, liberal multiculturalism itself has been integral to "...[securing] and [legitimizing] the already-established colonially defined territorial borders of the Canadian nation" (Dhamoon 2010, 3). When Dhamoon speaks about multicultural securitization, she refers to the ways in which liberal multiculturalism itself operates as a security mechanism that secures hegemonic nation-building projects (2010, 2). This technology of security operates on subject formation which is certainly tied to any "norms" adhered to by the court which are presented as universal.

Moreover, the decontextualized account of the court cannot account for the historical lineage of contemporary deportation practices which have mainly targeted refugees from the global south (People's Commission 2007, 67). Expulsion, exile, transportation and population transfers, all of which are legitimized through international law, echo "...former

colonial practices of transportation to the colonies and population transfers between colonies” (People’s Commission 2007, 67). Robertson J.A.’s normalization and neutralization of the state in the above passage naturalizes the sovereign’s right to be selective.²²⁵ However, this “right” has to be produced as legitimate given Canada’s colonial settler origins and the ongoing process of colonization. An absolved sovereign has no history of “...land theft and extermination campaigns against indigenous populations to the construction of political, legal and social structures that further Canada’s colonial , assimilationist and imperialist agenda” (People’s Commission 2007, 14).

Finally, the *Suresh* and *Charkaoui I* judgements are coherent in that they both erase and distort the impact of security certificates or the notion of harm. In *Charkaoui I*, for example, the judgment focuses on securing the judiciary. Namely, the focus is that the casualties of justice in this case are the judges, not the “detainees”. Judges “...have worked assiduously to overcome the difficulties inherent in the role the IRPA has assigned to them” (*Charkaoui I*, at para 51). The judges of the Federal Court have made their very best effort to “breathe judicial life” into the security certificate procedure, and this has placed a “heavy burden” on the shoulders of judges (*Charkaoui I*, at para 63; Wilke and Willis 2008, 40). It is the humanity, and the compassion, and the suffering of judges that is positioned at the center (Wilke and Willis 2008, 41). Lack of adherence to the process, or lack of adherence to the procedural guarantees of the IRPA compromises the judges; this is what is given visibility, what must be secured and what must be bolstered. And this is particularly significant given that the other more ‘marginal’ issues at hand include the state-initiated deprivation of liberty

²²⁵ While the *Charkaoui I* court seems to distance itself from an entirely neutral understanding of the state, it displaces this onto the judiciary which is deemed capable to implement the security certificate regime.

of non-citizen subjects.²²⁶ The background story here is long-term confinement, indefinite detention, and the threat of torture.

As the *People's Commission on Immigration Security Measures* (2007) summarizes, security certificate detainees are at risk for severe psychological breakdowns because of a number of key stressors: the indefinite nature of detention, being powerless, the constant threat of deportation to torture or death, the labelling associated with being deemed a terrorist and the impact on the family and the men (64-65). As Ahmad Jaballah (son of Mahmoud Jaballah, detained since August 2001 on a security certificate) has stated:

The conditions they are held under are horrifying. Being in solitary confinement, there is no proper medical care or proper food. Some have to go on hunger strike just to get what they want... And they are not demanding much, all they are demanding is just their basic human rights. [...] These men are held between four walls, in a small room, not being able to communicate with anyone, not being able to hug or interact with their children, having no one to talk to. It becomes a psychological torture." (People's Commission 2007, 50).²²⁷

²²⁶ Looking at prisoner ethnographies, other forms of writing and testimonies of security certificate detainees, Larsen (2008) describes how the experience of incarceration is often described as "disorienting, threatening, and total", as well as dehumanizing and exclusionary(24).

²²⁷ Ahmad Jaballah testified in front of the People's Commission on Immigration Security Measures regarding the experiences of his father, Mahmoud Jaballah, one of the Secret Trial Five (People's Commission 2007, 25). In November 1999, the certificate upon which he was held was deemed unreasonable, hence was quashed, leading to his release. Jaballah was arrested again in August 2001 under a second security certificate. In court, CSIS noted that they had no new evidence but had a new interpretation of the old evidence. The second certificate was also quashed but a third was issued. Ahmad Jaballah Ahmad felt that "...no matter how many times the certificate is quashed, one's name is never cleared, and the government is always entitled to issue yet another security certificate" (People's Commission 2007, 25). The Commission also writes that even when released from detention and held on house arrest, a situation often framed of as an improvement, detainees experience onerous release conditions. Jaballah's mail was opened, his phone was tapped, he could not use a cellphone or internet connection, there were 14 surveillance cameras installed in his home, he could no longer teach at a school that he had founded, his conversations between him and his lawyer were monitored illegally by CSIS (People's Commission 2007, 58-59). Charkaoui had to wearing a GPS tracking bracelet, the police could enter his house at any moment, had a curfew between 8:30PM and 8AM, he could only leave his house with a court approved chaperone, he had to report to an agent of the court once a week, he could only use his land-line at home, he could not use the internet or any computer other than his home computer and he could not leave the island of Montreal (People's Commission 2007, 58). A father of three children, Charkaoui could not take his kids to the park, could not go to mosque, could not phone his wife from the grocery store, could not engage in any activity outside his home with a chaperone being available (People's Commission 2007, 59). Harkat had to be accompanied at all times inside his home by a court approved chaperone, he was restricted to leaving his home three times a week, for a maximum of four hours each time, all of his visitors had to be pre-

Prior to being transferred to KIHC, the Secret Trial Five were held in provincial prisons, carceral spaces not designed for long-term detention. There, they were kept in solitary confinement, and they protested the conditions of their imprisonment using their bodies as resistance, for example through extended hunger strikes (Larsen and Piché 2009, 211). In describing his detention, Mohammed Harkat had the following to say:

I was arrested on Human Rights Day and I spent about a year in solidarity confinement. For a while, I was treated as though I did not have any rights at all. I was in shackles, cuffs, feet and waist, and I was not allowed to shave for 45 days. I was made to feel like an animal. It was three months before I had Halal food and only after I refused to eat other food. They did not permit me to have a Qur'an for several months. (Larsen et al. 2008, 35).

Even when released with conditions, so onerous were these conditions on the detainees and their families, that in March 2009, after being released to house arrest for one month, and after 7 years of detention with no charges, Mohammed Zeki Mahjoub asked to return to prison because the conditions were too difficult on his family. This erasure reflects another invisibilization - the erasure of Muslim women, and the spouses and families of the men who are detained on security certificates. The impact on their economic and personal security, and the ultimate ramifications for their marriages and future livelihoods do not figure into the risk analysis or the damage assessment here (Dobrowolsky 2007, 643).

6.3.3 Governing Dissent

In contrast to the previous two case studies, the case of security certificates is particular in terms of how notions of dissidence, governmental belonging and regulated

approved; he could not go to any airport, bus or train station; he could know associate with anyone he knows "or should know" supports terrorism or who he knows "or should know" has a criminal record (People's Commission 2007, 58).

inclusion can be applied in this context. Where notions of dissidence are cast as 'negative' forms of subjectivity in the previous case studies, the status 'political dissident' is significant in that dissidents are at the very least considered political subjects even if those in power are attempting to delegitimize their politics. Those named in security certificates do not have access to the status of dissident. They are non-citizens, essentially without legal or political subjectivity in the eyes of the state. Put differently, they have been securitized out of the political realm, and this continuity spans the entire study period. Consequently, liberal notions of belonging and inclusion are particularly ill-fitting concepts to understand the experiences and regulation of these non-citizens. This is important given that the exclusion, eviction, securitization and depoliticization of these non-citizens is highly relevant to discussions of citizenship regulation, particularly given the now tenuous grounds of formal citizenship in Canada mentioned early in this chapter.

There is, however, a fundamental tension in this case study in that despite being denied political and legal subjectivity, the 'birthing' of a subject as a terrorist is a deeply political exercise, particularly when those subjects are refugees. In *Suresh*, for example, the court rejected Suresh's arguments that "terrorism" and "danger to the security of Canada" in the *Immigration Act, 1976* are unconstitutionally vague (Carver 2002, 471). This is notable in that there is fairly widespread consensus amongst academics that terrorism is in fact an elastic concept that is variable depending on socio-political context (Larsen 2006a, 23 – citing Borradori 2003; Coady 2004; Dedeoglu 2004; Jenkins 2003; Ross 2003; Schmid 2004). Despite the stripping of political status from security certificate detainees, definitions of terrorism, particularly amongst refugee communities, are a live political issue given that many refugees are persecuted precisely for political reasons, and many refugees are

engaging in support for oppositional politics or movements in their home countries (Carver 2002, 471). In this sense, security certificate detainees, particularly those with a background as convention refugees, can be said to be exceptionally at risk in that their political context and past political affiliations and lives position them as potentially inadmissible and potential threats (Carver 2002, 471).²²⁸

The same dynamics are at play with respect to the IRPA and the *Charkaoui I* case. Section 34(1) of the IRPA outlines the grounds upon which a non-citizen may be found to be a threat to the national security of Canada, and on that basis be denied admission and be subject to deportation or removal. The grounds of inadmissibility include:

- a) engaging in acts of espionage or an act of subversion against a democratic government, institution or process as they are understood in Canada;
- b) engaging in or instigating the subversion of any government;
- c) engaging in terrorism;
- d) being a danger to the security of Canada;
- e) engaging in acts of violence that would or might endanger the lives or safety of persons in Canada; or
- f) being a member of an organization that there are reasonable grounds to believe engages in, has engaged, or will engage in acts referred to in paragraph a, b, or c.”

Bell suggests that the grounds of inadmissibility outlined in this section of the IRPA are afforded broad and unrestrictive interpretation, in such a way as to violate the guarantee of freedom of association (See Bell 2006b, 66). This assessment has also been made by the Canadian Council for Refugees (CCR) in its brief to the House of Commons Subcommittee on Public Safety and National Security. Here, the CCR notes that section 34(1)f is so broad that membership “...can be construed so widely it includes *unknowingly associating* with

²²⁸ Aiken describes how convention refugees applying for permanent residence status are often subject to security interviews “...that all too frequently resemble interrogations and for which the individuals arrive unprepared, having been given no notice of the purpose of the interview or their entitlement to be represented by counsel” (Aiken 2000, 55).

someone *suspected* to be involved in a so-called terrorist group (which is itself also undefined). What's more, this 'membership' need not even be established as a fact. All that is required for a finding of inadmissibility is that there be '*reasonable grounds to believe*' that the particular grounds for inadmissibility 'have occurred, are occurring or may occur' some day in the future" (Canadian Council for Refugees 2005, 3)

Larsen explains that while those targeted in national security campaigns have shifted historically with changes in the ideological backdrop to legislation and policy, the practical implications of what it means to be labelled a security threat have remained somewhat consistent (2006a, 61). When an individual, group or political collective are named a threat to national security, they move into a space 'beyond'. They move beyond the mechanisms associated with mainstream policing, into a new realm of investigation, surveillance and social control (Larsen 2006a, 61). For Suresh and Charkaoui, in being named terrorists or national security threats in this space 'beyond', both men were essentially treated as static subjects, reinforced in large part through the processes regulating evidence which do not afford subjects meaningful opportunities to change or challenge conceptions of their subjectivity.

The *Charkaoui I* court would note this. Here the court was concerned with the use of evidence against a detainee who had never seen said evidence (Duffy and Provosi 2009, 552). The court found that the IRPA violated section 7 of the *Charter* largely because the evidence was not made available for Charkaoui to dispute (Duffy and Provosi 2009, 552-553). The court stressed that a fair hearing requires that "...the affected person be informed of the case against him or her, and be permitted to respond to that case" (*Charkaoui I*, para 53). In this, the court referred to the UK special advocate system as an example of a system which is less

intrusive in terms of limiting section 7 rights, however, this system has been criticized as unfair in that it continues to thwart the capacity of those named in a certificate to know the evidence against them (Duffy and Provosi 2009, 553).²²⁹

There are further consistent and tangible implications for the ways in which Canadian law changes “...its conception of refugees from victims and survivors, to terrorists, a recoding where political activism that is in theory lawful for citizens, becomes the basis for expelling non-citizens” (Aiken 2000, 55). Larsen (2006a), for example, explains how the “Labeled Individual” and the “Potential Threat” “...experience the effects of ‘security threat’ claimsmaking in different but related ways” (62). Where some individuals may be not be aware they are the focus of long-term surveillance, others experience the consequences of being designated as a security threat immediately, with the intensity varying depending on whether individuals are aware of their status, whether members of their community are aware, whether the public and the media are aware, and so forth (Larsen 2006a, 62). Individuals may be subject to increased surveillance, increased scrutiny, electronic surveillance, and wiretapping, all of which curtails their capacity to be employed, or make and maintain connections with family, friends, colleagues, community organizations, and businesses (Larsen 2006a, 67).

As Dobrowolsky notes, however, these modes of regulation are not simply brought about with the securitization accompanying 9/11, but are also an expression of marketization, or the decline of redistributive services, and the commitment to privatization

²²⁹ Duffy and Provosi note that in the subsequent articulation of the security certificate process, the Canadian government actually lowered the standard with respect to the amount of evidence that can be kept from those named in certificates. Where the prior version required that the judge had to find that the information if disclosed *would* be injurious to national security, the new version required that the judge could choose non-disclosure for evidence that *could* be injurious (Duffy and Provosi 2009, 555).

and deregulation (Dobrowolsky 2007, 639-640). In the profoundly securitized climate of the post-9/11 period, marketization acts as an aggravating factor, fostering exploitation and economic barriers (Dobrowolsky 2007, 639-640). In the Canadian context then, there is a racialized and securitized logic to the freezing of assets, the losing of jobs, and threats to businesses when accusations are lodged that individuals are security risks (Dobrowolsky 2007, 640).

If as Sparks suggests, notions of dissidence are meaningful in that they deepen our understanding of who active and self-governed citizens are, as well as how citizens coalesce and mobilize as a political community, what is the notion of community available to those named in security certificates (Sparks 1997, 74). Roach's examination of the Canadian government's creation of a Cross-Cultural Roundtable on Security in 2004 is illustrative of the restricted notion of political community 'available' to these men. The roundtable was announced just weeks after the 2004 Madrid train bombings, and as part of the release of Canada's first official national security policy, *Securing an Open Society* (Roach 2006, 410).

The government described the roundtable as follows:

The Government needs the help and support of all Canadians to make its approach to security effective. Therefore, it will introduce new measures to reach out to communities in Canada that may be caught in the "front lines" of the struggle against terrorism....To this end, the Government is creating a Cross-Cultural Roundtable on Security, which will be comprised of members of ethno-cultural and religious communities from across Canada. It will engage in a long-term dialogue to improve understanding on how to manage security interests in a diverse society and will provide advice to promote the protection of civil order, mutual respect and common understanding. It will be a partnership with all communities to work to ensure that there is zero tolerance for terrorism or crimes of hate in Canada. The roundtable will work with the Minister of Public Safety and Emergency Preparedness and the Minister of Justice. (As cited in Roach 2006, 411).

The focus of the roundtable was only on traditional security issues, and not all the related issues which lead to the substantive insecurity of this particularly vulnerable population, including employment, discrimination and religious freedom (Roach 2006, 411). In the public call for nominations for the roundtable, 15 members were appointed in February 2005 (Roach 2006, 411). Of those 15 members, there were no Muslim representatives from Toronto, Montreal or Ottawa (Roach 2006, 411).

The broad point here is that those named in certificates are isolated and 'removed' domestically as they await to find out if they will be deported. Across the study period, a consistent and troubling way in which security certificate detainees are regulated is that as they are securitized out of the public realm, they become "...unable to contest the state's security regime, unable to dispute the hegemonic conceptualization of 'security' in public discourse, and are, ultimately made to be pariahs, becoming the proverbial 'them' of security discourses"(Larsen 2006a, 63). To express one's support for a liberation struggle in one's country of origin, may mark an individual as a potential security risk (Aiken 2000, 55). Writing in the pre-IRPA context, Aiken notes that the *Immigration Act, 1976* "...accords the same treatment to the mastermind of a hijacking and the person who has raised money in Canada to support an orphanage in her war-ravaged homeland" (Aiken 2000, 55).

All of these forms of regulation have a profound disciplinary impact not simply on those named in security certificates, but those around the individual, vividly demonstrating the way in which citizenship is relational, transnational, and regulated differentially. As Dobrowolsky notes, numerous communities, in particular Middle Eastern, Central and South Asian groups and individuals, describe feeling targeted, profiled, and presumed guilty, and

on that basis have modified their daily activities (Dobrowolsky 2007, 641).²³⁰ In a study surveying Canadian Muslims in 2002, 60% of respondents indicated that they had been subject to personal discrimination since 9/11, while 33% of respondents reported feeling that their lives had worsened since the terrorist acts (Dobrowolsky 2007, 642 - citing Helly 2004, 36). In the post-9/11 context, contributions to charities in Muslim communities have been affected negatively, with members of communities restricting their own cultural and social activities (Dobrowolsky 2007, 653). These impacts on individuals and communities are significant, particularly given the fact that the security certificate provisions of the *Immigration Act*, 1976 and now the IRPA are expansive, permitting the labelling and deportation of a person as a terrorist if they are a member of an organization that "...there are reasonable grounds to believe engages in, has engaged, or will engage" in terrorism (Macklin 2009, 2).

Despite this attempt to remove security certificate 'detainees' from the realm of the political, the post-9/11 period is notable in that the resistance of those named in security certificates is documented, and in this sense, despite all odds, security certificate detainees claim their political status as dissidents. Prior to being transferred to KIHIC in April of 2006, the men held on security certificates in the post-9/11 context vocally protested the conditions of their detention for lack of services, as well as overcrowding (Larsen and Piché 2007, 6). Mahjoub and Almrei both engaged in lengthy well publicized hunger strikes, protesting the government's use of provincial detention facilities to house security certificate detainees for long periods of time (Larsen and Piché 2007, 6). And, in 2007, in an open letter

²³⁰ One organization (Council on American Islamic Relations - Canada) has published a "Know your rights" guide for Muslims in Canada which includes sections on how to conduct oneself in interviews with CSIS and RCMP (People's Commission 2007, 19).

to “the people of Canada”, Jaballah, Almrei and Mahjoub called attention to their liquid-only hunger strike, as well as their detainment in KIHC, referring to the psychological torture of being held indefinitely, their distance from their families, the lack of rights and services at KIHC, the denial of medical care, and the humiliation of daily head counts given the population of three detainees in the KIHC.

This latter point regarding the KIHC represents a notable discontinuity in the post-9/11 period in terms of the exceptional infrastructure in which security certificate detainees are entangled, an infrastructure not acknowledged in the *Charkaoui I* decision. Here, Larsen and Piché’s important work on the KIHC is instructive. Larsen and Piché stress that immigration detention is not new, but that the construction of an immigration detention facility that would be housed on the grounds of a federal penitentiary constitutes an exceptional circumstance (Larsen and Piché 2007, 11). With respect to the KIHC, Correctional Services Canada (CSC) moved beyond their mandate to focus on rehabilitation, incapacitation and punishment of those convicted of criminal offences for which the penalty is two years plus a day (2007, 10). Larsen and Piché describe CSC as a “punitive mercenary-for-hire” given its participation in implementing the indefinite detention of those named in security certificates (2007, 10). Moreover, with the KIHC, the Canadian Border Services Agency (CBSA) partnered with CSC, moving beyond its role as “controlling the flow of people and goods across the Canadian border”, and “detaining and removing individuals who are deemed to pose a threat to Canada’s security” (Larsen and Piché 2007, 6). With the KIHC, CBSA becomes a “...prominent player in the business of social control, including detention on the grounds of a federal correctional facility” (Larsen and Piché 2007, 10). With this exceptional infrastructure, while the government describes CBSA as the operational

authority and the CSC as the service provider (2007, 7), Larsen and Piché note that both CBSA and CSC had “ambiguous positions...regarding proprietorship of the KIHC, [allowing] them to evade accountability with regard to the treatment of detainees” (2007, 10).

The final point in terms of the regulation of security certificate detainees is that the courts still sustain the liberal presumption that inclusion is always desirable. Yet, the case of the Secret Trial 5 is a stark illustration of regulated inclusion and its costs. Thwaites writes that in practice, after the second, third or fourth periodic review of the detention of security certificate detainees under the IRPA, the Federal Court has tended towards releasing individuals held in custody (2009, 695). In part a function of a security certificate regime where there is no real prospect of removing a named individual within a reasonable or foreseeable period of time, some argue that the choice to release detained individuals marks a shift towards a less onerous detention regime (Thwaites 2009, 696). However, the orders for release all have onerous conditions amounting to house arrest, given that in releasing detainees, the court still accepts the government’s claim that the named individual poses a threat to national security, hence that this threat must be “neutralized or contained” through the imposition of restrictive conditions (Thwaites 2009, 696). In 2008, Sophie Harkat, the wife of security certificate detainee Mohamed Harkat described the conditions of Harkat’s release:

Moe and I are prisoners in our own home and when we leave on approved outings it is only under a bubble of surveillance. These bail conditions are unprecedented in Canadian history and they have forced me to take on the role of full-time jailer to my own husband. Everyone in our family is paying the price....[the bail conditions] include the requirement that Moe wear a GPS tracking bracelet 24/7 and a heavy monitor on his belt during outings. He requires constant supervision by myself, my mother or another surety who has been approved by the Federal Court, and he can never be left alone outside or inside our home....There are surveillance cameras at the entrance

to our house and inside. Our telephone is tapped and our mail is intercepted. Moe is not allowed to go anywhere near my computer, which must be kept under lock in my office. This extends to all electronics, including cell phones, laptops and anything with an Internet connection. We are allowed three weekly outings of four hours in length and we must be back before the deadline....He is unable to enter certain government buildings or to attend certain events, like the Lebanese Festival - though he could attend the Greek Festival....Also, Moe is not allowed to speak Arabic in public - only on the telephone with his family. Additionally, Moe can only speak to pre-approved media. This has caused lots of problems with the press about freedom of speech and has made our work with the media very difficult. (Larsen et al. 2008, 41-42).

Echoing the case of Mohammed Zeki Mahjoub, who asked to be returned to prison after being released on house arrest for one month, the case of security certificate detainees illustrates that even for the most vulnerable non-citizens where 'inclusion' would seemingly be the prize and measure of a progressive citizenship regime, inclusion itself constitutes a mechanism of regulation that is far from benign.

6.4 CONCLUSIONS

This chapter has provided an analysis of Canada's security certificate regime in order to complicate assertions that 9/11 constituted a fundamental rupture in time in which a particular citizenship regime or citizenship trajectory was disrupted. By introducing a focus on racialization and securitization into this story of non-citizenship, the narrative offered here is quite different than the cultural liberal story that might focus almost exclusively on juridical citizenship and questions of belonging. Moreover, in choosing to fill in these particular gaps in the citizenship literature, the intention here has been to draft a citizenship narrative that more fully captures the complexities of being governed as an outsider to citizenship.

Positing 9/11 as a starting point for change when it comes to the securitization of migration is a difficult proposition to sustain when examining these two pivotal security certificate cases. The analysis here points our attention towards a strong historical lineage of continuity, while at the same time allows room to note the elasticity and flexibility through which national security operates as a technology of governance. Given the particularity of legal discourse, it is not entirely unsurprising that we see erasures of the process of racialization, securitization and the ways in which dissent is also regulated. However, using these legal cases as a point of comparison allows for an internal examination of the way in which this particular institution of governance did and did not project and participate in the creation of 9/11 as a fundamental rupture of time.

There *are* important continuities between *Suresh* and *Charkaoui I*. These were both unanimous judgements where the courts ultimately upheld the state's sweeping power over non-citizens (Thwaites 2011, 28). In *Suresh*, it was the possibility of deportation to torture, and in *Charkaoui I* it was the possibility of indefinite administrative detention (Thwaites 2011, 28). In both cases, the Court chose to address any rights infringements on a case by case basis, neglecting the breadth of the statutory powers in question, and shielding itself from engaging in the substantive issues at play (Thwaites 2011, 28).

Moreover, what we do see is how the courts themselves, their adherence to the "normal rule of law", and the focus on procedural justice, and not substantive justice, are integrally bound up in this political and juridical project of sustaining the security certificate regime. While there are small shifts that occur across the two decisions, ultimately these erasures are not incidental or idiosyncratic; they are representative of a larger body of thinking on citizenship that tends towards presenting citizenship as progressive, as open or

as continually evolving towards greater openness, where inclusion itself is always deemed good, where there are supposedly clear boundaries between inclusion and exclusion, and where rights are infallible. Clearly that body of thinking cannot capture the story being told here. For precarious citizens and non-citizens, that narrative simply does not hold.

This chapter also suggests that there is an extremely tight articulation between citizenship and non-citizenship, and that this is a relationship not marked by simple inversion. Despite discursive shifts, and institutional changes, there *is* continuity across 9/11 that is important to recognize, particularly when one looks at the ongoing racialization of immigration, the differential incorporation of citizens, and the policing or surveillance of different tiers of citizens in a *colonial settler state*. This latter point is particularly critical in that the ongoing violence of the state in terms of regulating precarious insiders and outsiders is not new; this violence is not limited only to non-citizens.



Chapter 7: Conclusions

7.1 INTRODUCTION

Just two days after the November 13, 2015 terrorist attacks in Paris, Michael Enright, a commentator at the Canadian Broadcasting Corporation (CBC) published an online essay (Enright 2015). In it, Enright wrote: “Islamist terrorists had no other purpose but to kill the innocents in the Twin Towers, so the ISIS killers had nothing more in mind than the slaughter of innocents in the cafes and the concert halls of Paris.” He asked, “Are we at war, a war without end? Does hate again and forever drive the international agenda? How frightened should we be in this country? Where do we turn in a world seemingly gone mad?” Enright would write, “Paris now has had its 9/11”.

On the same day as Enright’s piece would appear, an article was published in the *New York Times* by Anne Barnard. Barnard essentially reminded the world that just days prior to the Paris attacks, over 40 people had been killed in a double suicide attack in Beirut for which the Islamic State in Iraq and Syria (ISIS) had claimed responsibility (Barnard 2015). The article would cite the blog of Elie Fares, a Lebanese doctor, who wrote: “When my people died, no country bothered to light up its landmarks in the colors of their flag....When my people died, they did not send the world into mourning. Their death was but an irrelevant fleck along the international news cycle, something that happens in those parts of the world” (Barnard, 2015).

What does it mean to say that Paris has had its 9/11? One interpretation of this is that France has been irrevocably changed, the ‘path’ that France was on has been interrupted, and that all things that happen after this moment can be traced back, in some

way, to these attacks. This way of interpreting the Paris attacks, is one of the dominant narratives of 9/11 that this dissertation has challenged. To be clear, 9/11 has had an enormous impact, but it is the presumption of the absolute significance of this moment and the suggestion that it interrupted something in progress that initially gave me pause.

While the intention here has not been to offer an alternative political temporality, the undercurrent of this dissertation has been an interest in time, on problematizing dominant narratives of time, particularly narratives of change when it comes to Canadian citizenship. In this way, this dissertation began with, and now solidly ends with the premise that we are invested in particular narratives of time and change and that Canadian political scientists would be well-served to center this in our analyses. As Bryson notes with respect to political science, "...‘time’ is notable only for its absence, and there is no sustained or readily identifiable tradition of temporal analysis within the discipline." (Bryson 2007, 10). This erasure is important given that time is deeply political: "When dominant groups (often unconsciously) present their own experiences and perceptions as the definitive record of ‘what happened’, ‘others’ are marginalized or written out of history, victims of a ‘cultural imperialism’ that renders them ‘...invisible as subjects, as persons with their own perspective and group-specific experience and interests’ (Bryson 2007, 15). Our theoretical commitments lead us to describe change in particular ways, to define certain moments as transformative or as critical junctures. Put differently, and as illustrated in these case studies, our conceptions of history, time and transition can deny some the "sense of temporal existence" (Bryson 2007, 15). This is a process that is deeply imbued with power and has analytic implications for us as political scientists, particularly if we are interested in charting things like inequality, injustice and oppression.

This dissertation has asked, 'Have Canadian citizenship discourses and practices fundamentally changed after the terrorist attacks of 9/11, and if so, how?' In this chapter, I bring together the analysis of the three case studies – 1) discourses of multiculturalism, the issue of reasonable accommodation, and the anxiety over the veiling practices of Muslim women; 2) discourses of dissent and the suppression of academic freedom in the context of organizing for Palestinian rights at Canadian universities, and; 3) discourses of security and Canada's security certificate program - to argue that we can challenge the automatic presumption that the terrorist attacks of September 11 2001 constituted a fundamental rupture in time. Empirically, the historical lineage of each case study has demonstrated that the intense forms of regulation non-normative, marginalized and dissident citizens are subject to in the post-9/11 period are not unique to this period. Put differently, these forms of regulation were not made possible by the terrorist attacks of 9/11, the 9/11 moment does not fully give us the tools to make sense of these cases, and the case studies are literal reiterations of discursive and regulatory moments that significantly predate this moment in time. By identifying these parallels across the pre- and post-September 11 periods, and attending to the multilayered ways in which citizenship regulates, this chapter focuses on continuity in order to complicate and depart from dominant understandings that position the terrorist attacks of September 11 as a fundamental shift in politics as we know it.

In addition, I argue that in the Canadian context, liberal theories of differentiated citizenship do not help us analytically understand this continuity, and instead suggest that the 9/11 attacks interrupted a presumed trajectory of liberal progression. This is significant in at least two ways. First, I contend that our choice to focus on continuity or discontinuity is a political one that gives rise to particular narratives of time, crisis and change. In this way,

the liberal narrative requires active effort to sustain. Second, I argue that liberal theories of differentiated citizenship are analytically limited. In the Canadian context, the dominant citizenship story we often get recounted is by the liberal theorists of differentiated citizenship. Sometimes called the 'Canadian school', this dissertation has described how this group of theorists generally focus on demonstrating or proving that group-based claims, multiculturalism and differentiated citizenship are consistent with the values of liberalism, and they do this variably by focusing on recognition, representation, and differentiated rights, to name a few.

Liberal theories of differentiated citizenship have been challenged on a variety of fronts. For example, Isin et al. (2008) have noted the challenge to the binary of recognition and redistribution and the analogous binary of economism and culturalism (6). Others have challenged the predominantly normative nature of this work (Kernerman, 2005). Others like Bannerji (2000) have brilliantly challenged appeals to liberal tolerance, confronting the ways in which "diversity discourse portrays society as a horizontal space" (36). And Brodie (1997) has challenged the radical dehistoricization required by liberal theories in order to present a 'diversity narrative' for citizens racialized as non-white that reads as a history of relatively uncomplicated liberal progress (229). This dissertation has entered into this conversation on that note and I argue that this dominant approach to citizenship in Canada, as represented by the liberal theorists of differentiated citizenship, is theoretically and analytically partial and that this has consequences for how we think about 'time' crisis and change.

In particular, I have made three observations about liberal theories of differentiated citizenship. First, theories of liberal citizenship have neglected or sent to the periphery the

politics of race and processes of racialization when in fact *citizenship regulates through race*. Second, a guiding tension in this work has been universality and particularity, and the individual versus the collective; this has shaped notions of crisis and conflict, but this focus on unity and diversity is narrow and reflects an absencing of security when in fact *citizenship regulates through security*. Third, notions of belonging and inclusion have been central in these theories, but the focus has largely been on passive belonging, leaving civil liberties, or more specifically dissent, dissidence or the refusal of inclusion outside of the discussion when in fact, *citizenship regulates through notions of dissidence*. Critical to the approach adopted here has been the treatment of citizenship as a form of regulation, and not solely or primarily as an institution or status. Instead, citizenship is a governmental strategy that visualizes who or what is to be governed, what problems need to be solved, through which mechanisms can authority and rule be secured, what kinds of identities the state can conceptually govern, and what forms of expertise or knowledge can be harnessed in governing (Dean 1999). By reorienting our focus on citizenship as regulation, and addressing these three substantive ways in which citizenship regulates, this dissertation has challenged the abstractions of liberal theories of differentiated citizenship, and disrupted liberal temporalities that might presume that 9/11 interrupted a history of relatively uncomplicated liberal progress.

This concluding chapter brings together the research on these three case studies: discourses of multiculturalism, the issue of reasonable accommodation, and the anxiety over the veiling practices of Muslim women; discourses of dissent and the suppression of academic freedom in the context of organizing for Palestinian rights at Canadian universities, and; discourses of security and Canada's security certificate program. As demonstrated by

my analysis, in each of these cases, assumptions around governing and citizenship were subject to intense controversy in the post-September 11 period. However, in each of these cases, the lineage of the controversy extends back prior to September 11, 2001. Put differently, these controversies were not rendered possible because of the terrorist attacks of 9/11, and the 9/11 moment does not fully give us the tools to make sense of these case. In fact, these case not new; they are old stories that have been rehearsed and performed in quite literal ways. By identifying these parallels across the pre- and post-September 11 periods, and attending to the multilayered ways in which citizenship regulates, this paper focuses on continuity in order to complicate and depart from dominant understandings that position the terrorist attacks of September 11 as a fundamental shift in politics as we know it.

This chapter begins by bringing together broad observations from the previous chapters along three key dimensions: governing through exception, governing through crisis and security, and governing dissent. In Chapter 2, I focused on citizenship as a form of regulated inclusion to examine the governance of Canadian Muslim women. Here, I noted that the historical lineage of the post-9/11 reasonable accommodation debates illustrate that there are consistent patterns of governance which belie characterizations of liberal citizenship as being ever-more inclusive. The complexity of the citizenship trajectory of marginalized, non-normative and dissident citizens was reaffirmed in Chapters 3, 4 and 5, in the case study regarding the regulation of Palestine solidarity activists on York University campus. Despite the notable intensity of the backlash against Palestine solidarity activism in the post-9/11 period, these chapters demonstrated a long history of regulation underscored by the strategic resort to exception, as well as by an increasingly narrow scope

of 'palatable' forms of resistance. Positioned within the longer historical trends of neoliberalization, corporatization and militarization of the institution of the university, the case study demonstrated that the foundations upon which Israel advocacy organizations have based their backlash have remained remarkably consistent. However, the backlash itself has intensified as Palestine solidarity activists have successfully adopted an apartheid analysis as well as the non-violent BDS campaign, two forms of resistance that specifically target the historical ways in which Israel advocacy organizations attempt to secure moral legitimacy for the ongoing occupation. Finally, in Chapter 6, I provided an analysis of Canada's security certificate regime and complicated assertions that 9/11 constituted a fundamental rupture in time with respect to the regulation of security certificate detainees. This analysis pointed towards a strong historical lineage of continuity, positioned within often elastic and flexible notions of national security.

In my concluding analysis, I tease out my understanding of these cases based on my analysis of these three substantive ways in which citizenship regulates. By centering racialization, dissent and security, the chapter ends by considering the implications of this analysis for citizenship scholarship in Canada, arguing that: 1) time does matter and that Canadian political scientists need to pay explicit attention to it; b) when we approach citizenship as a form a regulation that operates intrinsically through racialization, securitization and the containment of dissidence, our notions of time, crisis and transition can change, and; c) that this disruption of dominant liberal temporalities raises a larger question about the analytic value of 'belonging' as a frame in both liberal and critical scholarship.

7.2 ANALYSIS

7.2.1 Governing through Exception

This dissertation has argued that in terms of thinking through how citizenship regulates through race, in combination with Foucauldian-inspired governmentality analyses, Agamben's notion of the state of exception, and David Theo Goldberg's notion of the racial state are useful in that they demonstrate how the Canadian state has continually governed through the racialized exception.

In brief, Agamben (2005) is arguing that the discourse of exception and the accompanying strategy of necessity are part of a much longer pattern of governance where the state of exception transforms a provisional measure (a state of emergency) into a technique of governance (Abu-Laban and Nath 2007, 79). States of exception are zones of indifference where sovereign power (bare force) renders aspects of the law inapplicable, in response to perceived necessities brought about by crisis. As Larsen and Piché (2007) explain, in concrete terms, this means a proliferation of policies - or counter law - that replace due process and democratic procedure with sovereign or executive prerogatives (16).

While Agamben's work has been criticized as being abstract, totalizing and lacking an analysis of subjectivity, Goldberg's analysis of the racial state provides for some roots here in terms of thinking about the constitution of the subject, but also for broadening out the conversation on the exception and notions of exceptionality in that analysis of subjectivity. Goldberg is arguing that the state is not just implicated in racist exclusion, but that the state has always conceived of itself as racially configured. The racial state describes a state of governance where race is integral to the conceptual and institutional emergence,

development and transformation of the modern state. So, states are racial in terms of their modes of population “definition, determination and structuration” (Goldberg 2002, 104).

In applying Agamben’s analysis to these three case studies, it becomes clear that this level of historicity requires that citizenship theorists attend to continuities and consider the ways in which the Canadian state has continually manufactured racialized and gendered zones of exception, or put differently, the way in which *citizenship is practiced and regulated through the exception*. Across these three case studies, there are three main ways in which notions of the exception remain by and large consistent over the 30 year time period covered. First, each of these cases demonstrates the ways in which power is derived from claiming a space of exception. Second, across these cases as well as before and after September 11, 2001, non-normative, non/citizen subjects are delinked from their political and legal subjectivity through securitization and the exception. The varying forms of depoliticization evident in these case studies illustrate the interplay of force and law in the state of exception. Here, a state of exception is not marked by an absence of law. Rather, the state of exception is replete with law, but law that legitimizes the power of the sovereign (Larsen and Piché 2007, 16).²³¹ This depoliticization also requires a radical inversion of power relations wherein the sovereign is cast as threatened by non-normative non/citizen subjects when in fact, the reverse is true. Third, the cases demonstrate the ways in which the exception constitutes a profoundly disciplinary form of regulation.

²³¹ At least two points of caution should be raised here. First, Agamben’s analysis submerges the reality that not all individuals are regulated in the same way in the state of exception. Consequently, the processes through which subjects are delinked from their political and legal subjectivity are both systemic and situated. Second, where the concept of counter-law enables us to understand the way in which states of exception are in fact replete with administrative or legal power, the corrosive impact of counter-law on traditional procedures, standards or laws, for example criminal law, should not be taken to insulate or idealize these norms of law in terms of their impact on marginalized communities or varying types of dissident citizens.

Power of the Exception

In at least two of the case studies, power is substantively derived from claiming a space of exception. The capacity to take on the status of exception and wield it from a position of power is not available to non-normative, non/citizen subjects. Instead, the tension, uncertainty, crisis and flux that is (re)produced in a state of exception cultivates profound insecurity for these dissident subjects. For example, in Chapter 1 I demonstrate that one significant continuity across the pre- and post-9/11 period regarding the regulation of Muslim women is the regulatory work done by characterizations of the province of Québec as exceptional. Here, Québec is described as an outsider, with the focus on the dominance of English-speaking Canada and the conquest. Québec is also presumed to be an insider, with the focus on its status as one of the original founding nations.

This portrayal of Québec yields power to the state in three different ways. First, *The Gazette* presents a narrative of a unified and coherent historical and contemporary struggle where Québec and/or the Québécois are striving for equality with dominant groups while at the same time trying to retain their distinctiveness (Juteau 2002, 442). Second, the history of conquest and colonization of the French by the English is highlighted at the same time that the historical and ongoing colonization of First Nations, Inuit, Métis and non-status Indigenous people is submerged. Both of these narratives function to morally legitimize state and nation-building in Québec. Third, the narrative of exception produces an ongoing insecurity which fulfills the needs of the nationalist drive by emboldening its citizens. This national project is marked by and *requires* tenuousness, crisis and flux. For citizens who do not find that their identity is coterminous with Québec's, they must accept their own tenuous status and wait for the larger insecurity to resolve.

This status of insecurity allows for citizens to be regulated in particular kinds of ways. For example, the actual distribution of power in the state is continually inverted as a strategy of legitimacy. In fact, this inversion must be insisted upon. If the state is threatened by 'us', the state can take whatever measures possible to neutralize this threat. Moreover, as the case study demonstrates, this productive ambiguity around the Québec identity and its associated values means that what the veil represents is contested as well. The constant here is that Muslim women are a threat, but the nature of this threat will shift as the narrative of Québec identity shifts.

For example, one common thread in the pre- and post-9/11 period is that there is something exceptional about Québec's trajectory as a nation that explains why there is a debate over the hijab, or the niqab as the case may be - whether it be an unfinished debate over the Quiet Revolution, sovereignty, the transition to women's equality and/or the separation of church and state. Québécois are living in exceptional times. Unlike the rest of Canada, Québécois have "earned their uncertainty" (Editorial 2007, B6); they are coping with the "seismic shocks of the 1960s and 1970s" (Editorial 2007, B6), they should not, in the words of then leader of the Parti Québécois, Pauline Marois, be "Afraid to seem intolerant" (Macpherson 2007, A15). These exceptional times are not directly linked to September 11, 2001 but rather to the unique nationalist and separatist history in Québec. But this unique trajectory of the state also functions to legitimize racism, xenophobia or Islamophobia with the casting of Québec as a coherent victim. What is the impact? The moral legitimacy of Québec nationalism and the entitlement gained by having founding nation

status means that once Québec gets where it is going (sovereignty or cultural security), Québécois will exhibit more ‘tolerance’ and things will get better.²³²

Notably, similar dynamics are apparent in the case study on Palestine solidarity activism. As I demonstrate in Chapter 4, the state of Israel figures prominently in the articles pooled from the student newspaper the *Excalibur*, and throughout the entire 30 year period, Israel itself is cast as an exception or as exceptional, a status that is accomplished by two main moves.

First, anti-Semitism is treated as exceptional. It is treated as a unique historical norm, particularly because of the Holocaust, and it is characterized as an exceptionally severe or potent form of racism. While the pitch of this is heightened after 9/11, across the study period, exceptional attention is paid to anti-Semitism, exceptional liberties are given in terms of the presumed veracity of allegations of anti-Semitism, and notably, exceptional liberties are taken (and given) in the expression of anti-Muslim racism by certain supporters of the state of Israel. Related to this, consistently there is minimal history of anti-racist solidarity between York campus-based Zionist groups and other groups on campus engaged in anti-racist politics.

The second move involves the characterization of the state of Israel as “the collective Jew”. Here, the state is characterized as a victim. Israel is alone, an outsider, and at risk. But Israel is also original, entitled, foundational and unique in the Middle East and among world states. This Israel is an exceptional democracy, committed to diversity, sharing common

²³² The other ‘pull’ in this description of Quebec’s exceptionality is an Anglophone one, where French Quebec (read: white) is exceptionally intolerant, xenophobic, ignorant or inexperienced at dealing with ‘diversity’ as compared to English Canada and the Anglophone Quebec population – this generates of legitimacy in which English Canada, the finely honed coloniser is naturalized as benevolent, tolerant and welcoming. Both of these become exceedingly powerful ways in which citizens are governed over the 25 year time period.

values with Canada; here, Israel's right to self-determination is centered. As with the regulation of Muslim women in Québec discussed in Chapter 3, this outsider status emboldens the state's supporters, but does so through the production of ongoing insecurity. Supporters of the state of Israel must continually demonstrate their *active* support, and the ongoing crisis or insecurity in which Israel is positioned justifies inordinately unjust exertions of state power against the Palestinians. In addition, there is a transnational pull to this where the personalization of the state of Israel means that these dynamics extend to York University campus. If Israel as the 'collective Jew' is a victim and an outsider, on-campus supporters of the state are similarly positioned.

As demonstrated in Chapter 4, these two moves are the ingredients for the primary mechanism through Palestine solidarity activists are regulated across the entire study period: the construct of the new anti-Semitism. The first reference to a new "anti-Jewishness" is in 1982. During this early period, allegations of the new anti-Jewishness target those critical of Zionism as being anti-Semitic. While the nature of the allegations would remain the same, in later periods, the allegations of anti-Semitism would shift to those criticizing the state of Israel, then to those applying the apartheid analogy, and then ultimately to the strategy of boycott, divestment and sanctions against Israel.

The regulatory power of this sustained deployment of the new anti-Semitism is that it extends moral legitimacy to supporters of the state of Israel, at the same time that it delegitimizes, displaces and constrains the political mobilization and the political commitments of Palestine solidarity activists – and this is because anti-Semitism *IS* objectionable. Now, with attempts to institutionalize this overbroad definition of anti-Semitism, something we see after 9/11 and not before, criticism of the state of Israel is

accompanied with the risk of all sorts of sanctions: public shaming through the media – a strategy consistent throughout the study period but heightened after 9/11; restrictions on academic freedom and freedom of speech, also consistent throughout but heightened in the post-9/11 period; sanctions by the university through students codes of conduct and regulations governing student groups; attacks on members of student government; and threats with respect to funding, be it at the university level or the targeting of groups like the Ontario Public Interest Research Group. In addition, the deployment of the new anti-Semitism, delegitimizes and distracts from the substantive claims being made by Palestine solidarity activists, inverts the power dynamics on York University campus, and enforces an obligation to support Israel.

Depoliticization and the exception

Another notable trend across the three case studies, as well as across the time period covered, is the way in which racism is depoliticized as it is characterized as an exception or as exceptional. Moreover, broader attempts to regulate non-normative, marginalized and dissident non/citizens are also similarly depoliticized.

As described in Chapter 6, the deeply racialized security certificate process is illustrative of the state of exception as well as the concept of counter-law in its purest sense (Larsen and Piché 2007, 16). Here, security certificate detainees are subject to the law, but they are not subjects *in* the law hence they are not afforded rights within a particular legal regime (Larsen and Piché 2009, 209 -- citing Salter 2006). Rooted within the logic of neoliberal risk management, where precaution is stressed in addition to, or over and above prosecution, the foregrounding of precaution in the security certificate process justifies the derogation from due process in this quest to manage possible risk (Larsen and Piché 2007,

16). But this is not a suspension of law. Rather, in the case of security certificates, these violent detentions are raw exertions of sovereign power that are legitimated precisely through appeals to the rule of law and procedural justice (Larsen and Piché 2009, 209). Mainstream liberal citizenship theories take law, however, as a given that is interpreted and applied. Yet, as demonstrated in this case study, law is a strategy of governance and a form of regulation which creates and regulates its non/citizen subjects in profoundly racialized ways. By unmasking this, there are a few notable continuities across the across the *Suresh* and *Charkaoui I* decisions that trouble characterizations of 9/11 as disrupting an apparent citizenship consensus.

First, clearly and consistently across both *Suresh* and *Charkaoui I* is the basic fact that those named in security certificates are positioned in the first order as threats, not as rights bearers (Wilke and Willis 2008, 28). Because the state is ultimately the guarantor of rights, security certificate detainees are the embodiment of the exception in this zone of ambiguity between human rights and citizenship rights (Oriola 2009, 266). Both before and after 9/11, the violence of rightlessness is possible because these are non-citizens. They have not simply lost life, liberty and the pursuit of happiness, but are instead divorced from any community (Oriola, 2009, 266). In this sense, both before and after 9/11, the issue for security certificate detainees is not one of the unequal application of law, but that “no law exists for them” (Arendt, as cited in Oriola 2009, 266). Both before and after 9/11, the subject position available to those named in security certificates is severely circumscribed in that they can only be threats *or* rights bearers.

Second, in both *Suresh* and *Charkaoui I*, the deeply racialized nature of the security certificate regime is depoliticized as both courts reinforce not simply the rule of law, but

resort to procedural justice as the remedy. In this way, as my analysis in Chapter 6 demonstrated, the substantive issues at play in the security certificate regime are submerged and/or erased, and the focus becomes on identifying deficiencies in the statutory requirements for the review of the reasonableness of the regime, as in *Charkaoui I*, or the proper implementation of procedural safeguards or protections once risk of torture upon deportation has been established, as in *Suresh*. The appeal to procedure means that in both cases, the court suggests that rights infringements be addressed on a case-by-case basis, an approach yielding significant discretionary power to the Minister, in the case of *Suresh*, and to the federal court, in the case of *Charkaoui I*. Discretion is presumed to be manageable through procedural safeguards, and discretion is not positioned within the racialized context in which detainees find themselves.

In this way, the rule of law as procedural justice takes us to a space of citizenship or non-citizenship regulation where rights are grants arising from the state's discretion; they are not inherent to the human status of these subjects (Wilke and Willis 2008, 27). This constitutionally minimalist approach is profoundly depoliticizing, erasing the fact that what is at stake in the racialized security certificate regime is the substantive rightlessness of these racialized non-citizens. This focus on procedural adherence and the 'correct' application of the law requires that we sustain the liberal presumption that subjects are positioned equally before the law, a position that assigns the detainee a tenuous ontological status that is deeply racialized and fundamentally unrecognized by the courts both before and after 9/11. As Larsen and Piché note, in the state of exception, notions of imprisonment and detention become abstractions (2007, 5-6).

As is demonstrated in Chapter 2, race is similarly evacuated from the discussion with respect to the regulation of Muslim women in Québec who wear some type of veil or head covering. Throughout the entire 25 year study period, an appeal to formal equality and the supposed neutrality of rules and procedures can be identified as a constant. When Justice Alary evicts Wafaa Moussiyne from the courtroom for wearing her hijab, it is about courtroom decorum and nothing more. Or, when Émilie Ouimet is expelled from school for wearing a hijab, the nun in charge of the school justified her eviction on the basis that she derogated from the school uniform. The appeal to the formal application of rules and procedures is also clearly evident in the series of sports-related hijab cases. The inclination towards characterizing inaction as neutrality can be located in the reticence of government officials to act in any capacity on the issue of the hijab. Moreover, when the issue reaches the domain of the private schools, a discourse of entitlement to make whichever rules one wants emerges strongly.

The appeal to rules desystematizes and depoliticizes how Muslim women are regulated *as Muslim women*, and key to this depoliticization is not just the erasure of the ways in which Muslim women are racialized, but also the consistent portrayal of racism as unintentional or attitudinal as opposed to systemically entrenched. In this way, the depoliticization of racism by casting it as exceptional is accomplished by appeals to ‘neutral’ rules, but also to tolerance as a strategy of governance, in that “inequality, subordination, marginalization and social conflict” are recoded as “...personal and individual, on the one hand, or as natural, religious, or cultural on the other” (Brown 2006, 15). Both of these modes of regulation echo the voices in Canadian liberal theories of differentiated citizenship,

wherein racialized processes are recoded as cultural, and political and economic vocabularies are replaced by “emotional and personal” ones (Brown 2006, 15).

Yet, as described in Chapter 4, race and racism are not simply evaded when we look at the case of Palestine solidarity activism on York university campus. Here, anti-Semitism itself is elevated, and cast as an exceptional form of racism. This is notable in that the positioning of anti-Semitism as exceptional (in that it is exceptionally widespread) runs contrary to discourses which tend to submerge racism by treating it as exceptional (in that it is exceptionally rare). Yet, this elevation of anti-Semitism relies on the simultaneous submersion of other forms of racism and oppression, namely anti-Muslim racism or Islamophobia, and the ongoing repression of Palestinians through the occupation. Moreover, this elevation of anti-Semitism underscores the broadened and distorted allegations of anti-Semitism strategically employed by Israel advocacy organizations in both the pre- and post-9/11 period. In this way, the consistent exceptionalizing of anti-Semitism is complex and notable in that it relies on a series of power inversions not necessarily captured by mainstream liberal theories of differentiated citizenship. Yet, what *is* new in the post-9/11 period, is the attempt by Israel advocacy organizations to entrench and institutionalize definitions of the new anti-Semitism. Here, recognition of racism is not simple, meaning that the recognition of anti-Jewish racism and its institutionalization are not simply signs of ‘progress’ as a liberal narrative might recount. These allegations belie ‘progress’, in that they function to narrow the political space available for dissident citizens, they dominate and appropriate the anti-racist political space, and they attempt to vacate the occupation, anti-Muslim racism, and at its most extreme, Palestinians themselves, from political discourse.

In addition, as is demonstrated in Chapter 5 regarding the progressive corporatization and neoliberalization of the university, depoliticization of the regulation of dissent through an appeal to supposedly 'neutral rules' is a consistent strategy employed by the university both before and after 9/11. At York University, the regulation and securitization of space is a notable way in which dissent and dissidence are contained across the study period, with contestation over the use of university space emerging as early as the late 1980s with respect to tabling in the Bear Pits, and then of course with the active contestation over attempts to ban political activity in Vari Hall in the latter period. As is demonstrated in the analysis in Chapter 5, the strategy of containing dissent by regulating space does intensify, particularly after the 2002 Concordia riots. Moreover, in the latter period, the administration's choice to regulate dissent by regulating space becomes a more conscious strategy, particularly with respect to presenting itself as neutral in the implementation and application of space-related regulations. This is significant in that regulations impacting access to campus space have a disproportionate impact on campus-based Palestine solidarity activists.

In each of the case studies – the regulation of Muslim women in Québec, the regulation of Palestine solidarity activists, and the regulation of security certificate detainees - a radical inversion of power must occur for power to be gleaned by claiming the space of exception, as well as for this sort of depoliticization of race and racism to occur. In the first case, Muslim women are increasingly cast as the ones who are, in fact, demanding to be treated exceptionally. According to this narrative, Muslim women are taking advantage of the law, or Muslim women are benefiting from supposedly two sets of law for different people. Accommodations are not rectifying any discrimination or inequality, nor are

accommodations about facilitating integration. Security certificate detainees are not even positioned within the realm of making demands. And, Palestine solidarity activists are characterized as pushing the bounds of what is considered properly political. Ultimately what happens with this inversion is that these non-normative, dissident non/citizens are required to adhere to certain rules, but are not entitled to make claims associated with those rules. This is consistent both before and after 9/11.

Disciplinary effects

Finally, the focus on the exception in my analysis has illustrated the disciplinary power of this form of regulation in terms of producing the ideal citizen. With respect to Muslim women who wear some type of Islamic head covering, Palestine solidarity activists, and security certificate detainees, the texts reveal consistent citizenship caricatures of the kinds of 'identities' that the state or institutions of the state can conceptually govern or versions of citizens that the state wants to govern.

For example, as demonstrated in Chapter 2, across the study period, the 'best' version of the exceptional Muslim woman is different than the one who is veiled, submissive, exceedingly devout yet stifled by religion, a victim, mired in a backwards community and culture that oppresses her, incapable of agency, a participant in her own oppression, monolithic, and wholly dependent. With that being said, the 'best' version of the exceptional Muslim woman cannot be too powerful, too political, too provocative, too participatory, or too engaged. These women are always potential gateways to a profoundly 'illiberal' way of life. As *The Gazette* demonstrates, these categories of exceptionality are deeply intertwined, exceedingly productive and profoundly disciplinary. If you choose to be a 'properly' integrated Muslim woman, you reap the rewards of partial insider status. Embedded within

this lesson is the presumption that inclusion is always good, a point I will return to later. If, however, you want to resist in ways that makes you ungovernable, you pay the price. Regardless of the good or bad version of the Muslim woman, Muslim women border on the edge of potentiality; they are endemically risky citizens. Without constant vigilance, Muslim women, whose political realities are characterized as wholly contained by their hijabs, niqabs or burqas, are positioned on the cusp of regression.

The analysis in Chapter 5 demonstrates how the pages of the *Excalibur* reveal even more clearly and tangibly the punitive or disciplinary consequences of the exception when it comes to dissident citizens. There is deep consistency over the 30 year period covered where individual dissident citizens, or Palestine solidarity activists, are disciplined and shamed on the basis of their political commitments. Whether they are, in theory, offered protections via student codes of conduct or commitments to academic freedom, they are disciplined outside the protections afforded here *and* both academic freedom and student codes of conduct *become* forms of regulation with oppressive consequences. Here, the cases of Bipin Lakhani, David Noble and Dan Freeman-Maloy are particularly illustrative of the range of disciplinary mechanisms – emergency meetings and extraordinary measures, public shaming through allegations of anti-Semitism, personal attacks, critique of ‘inappropriate’ political activities, distortion, and requests for resignation - that would be used against Palestine solidarity activists.

Finally, as demonstrated in my analysis in Chapter 6, security certificate detainees’ exceptional status removes them from the realm of political and legal subject. As mentioned earlier, the subject position of these men is a binary one, in which they can be either rights bearers or threats. With respect to the way in which the exception functions to regulate them

as exceptional non-citizens, the case study illustrates how in the post-9/11 period, these men are quite literally physically positioned within a space of exception in the form of the pseudo-prison, the KIHC. In this way, while the citizenship caricature of security certificate detainees can be said to remain constant across the study period, the infrastructure entrenching the exception does shift and serves to highlight this ambiguous and exceptional status. The qualitative impact of this post-9/11 infrastructure, is not, however clear, as demonstrated by Mohammed Zeki Mahjoub's choice to return to prison because his conditions of release were too onerous.

7.2.2 Governing through crisis and security

This dissertation has also drawn attention to the ways in which liberal theories of differentiated citizenship focus on narrow notions of in/security, for example crises related to nationalism, cohesion, belonging and identity. Here, even as liberal theorists of differentiated citizenship attempt to rehabilitate liberalism and render it compatible with, for example, multiculturalism, 'diversity' masks a more political rendering of the difference that is deemed threatening and why. Even the word 'security' figures minimally in this scholarship. As noted in the dissertation, the absencing of the word security is worthy of attention given that within liberal theory, security itself is understood as part of the original social contract (Dhamoon and Abu-Laban 2009, 168). So, while at least some notion of in/security would seemingly be integral to even mainstream liberal analyses of citizenship, this does not seem to be the case.

As demonstrated through these case studies, however, security is an exceedingly powerful form of governance and regulation, but one that is *integral* to the regulation and performance of citizenship over time. This means one cannot comprehensively analyse

citizenship without considering how it is regulated through in/security. This is, however, complex and multilayered. First, notions of security in general or national security more specifically are far from static. The content of and boundaries around citizenship, discursive or otherwise, tend to both harden and sharpen during periods of perceived and actual crisis (Macklin 2006, 48). As Macklin explains, this rigidifying and honing of boundaries is augmented given that there is an ongoing perception of crisis believed to be posed by multiculturalism, binationalism and Indigenous resistance (2006, 48).

Second, as Nyers reminds us, security and insecurity operate together; they are mutually reinforcing and co-determinate (2009, 3). In addition, security is performative. Securitization scholarship reveals how security is “dynamic and formative of social and political life” (Nyers 2009, 3). In this sense, securitization enables us to consider the ways in which particular subjects (understood broadly) are framed and regulated as security issues; they are constructed as a matter of survival for political communities. And, as noted in the previous section on the state of exception, as security issues they are evicted from the realm of the political and at the most extreme, the human. The moral weight and legitimacy given to maintaining security means that security issues are characterized as beyond contestation, significantly reducing the scope of the political world of non-normative, non/citizens.

Third, the ambiguities underscoring security are not groundless, but rather shaped by deeply rooted yet dynamic systems of oppression. Simultaneously, however, there is ambiguity about security in that it can be treated as an objective goal to be achieved, it can be marked as a commodity for exchange, and it can also refer to subjective states of being (Larsen 2006a, 48). Critically, this sliding and deeply contextual nature of security means

that security has been and can be used to legitimize a whole host of exclusionary policies that target a variety of dissident or non-normative non/citizens (Larsen 2006a, 49).

In this sense, production of and *insistence on insecurity* or the existential threat is integral to the ways in which citizenship governs and to the ways in which citizenship itself is regulated. In adopting an analysis which foregrounds securitization, the three case studies are consistent in that both before and after September 11, 2001, the focus of security or what constitutes being secure is determined by the state or institutions and agents with power. What does vary, to some degree, before and after September 11 2001 is the ways in which institutions themselves are perceived to be at risk and the strategies used to contain that risk.

Whose security matters?

As demonstrated in Chapter 6, in the *Suresh* and *Charkaoui I* cases, there is a shift before and after September 11, 2001 as to what is being secured. In *Suresh*, the court is clearly concerned with formal security interdependence, and the judgement makes explicit links to the 9/11 attacks. Here, states are characterized as having a responsibility to other states, and security threats are indiscriminate, a perspective that would later be echoed in Canada's first national security policy release in 2004, "Securing an Open Society". The *Suresh* court is not alive to the suggestion that national security might be more dependent on a just and durable resolution to conflicts than on relocating potential security threats (Okafor and Okoronkwo, 2003, 39). In this sense, the *Suresh* ruling does demonstrate a shift in content and a compression of physical space with respect to the characterization of threat and security after the September 11 terrorist attacks. This content and compression are not apparent in the pre-9/11 federal court rulings.

The stress and tone of the *Charkaoui I* court is different. As opposed to the *Suresh* court's interest in formal security interdependence, as well as the protection of Canadian values (liberty, the rule of law and principles of fundamental justice) (*Suresh*, at para 4), *Charkaoui I* stresses the importance of balancing security with "accountable constitutional governance" (*Charkaoui I*, at para 1). The security of citizens, who are present in *Charkaoui I* yet absent from the *Suresh* decision, is the responsibility of the government and arguably, further proximity to the events of September 11, 2001 has produced a more measured response by the court.

Despite these shifts, the continuity across these decisions, hence across the time period, is that both courts are dealing with the material realities of those subject to state-imposed violence and deprivation, yet neither court characterizes this as the security issues at stake. In *Charkaoui I*, extended periods of detention are not found to violate the *Charter of Rights and Freedoms*. In fact, the court maintains that the threshold for a breach of section 12 of the *Charter*, the provision prohibiting cruel and unusual treatment, is high. Detention is only cruel and unusual if it violates the accepted norms of treatment, a standard articulated in *Suresh* as well. In this sense, the broad strokes of security remain the same across the pre- and post-September 11, 2001 period in that the in/security interests of those detained on security certificates are erased or minimized to the extreme and the security interests of the state remain largely unproblematized. In fact, in *Charkaoui I*, my analysis demonstrated that the focus is on the interests of the judiciary itself.

With respect to the regulation of Muslim women in Québec, the analysis in Chapter 3 demonstrates that there are broad and varied dimensions of security in play across the entire study period. However, there is a progressive securitization around equality or

accommodation type issues in the latter period. With respect to the securitization of Muslim women themselves, over the 25 year period, there are a number of different security permutations apparent. First, Muslim women are endangered by Islam, fundamentalism and Muslim men; here Muslim women are cast as completely void of agency and are clearly victims in need of saving. Second, Muslim women are a danger to themselves. Here, Muslim women are both insecure and a security threat, though by and large within this configuration the threat Muslim women pose is not intentional. Third, Muslim women are a danger to the nation or 'us', and finally Muslim women are a danger to Western women specifically. In this way, there is clearly a broadening and shift in security discourses applied to Muslim women, where the veil at times signals submission, but then increasingly provocation, an aggressive political agenda, refusal to integrate and 'intolerance' towards the 'host' society.

Despite these shifts in *emphasis*, these varying security permutations do, in fact, operate simultaneously over the time period covered, meaning that you *do* see significant coherence across the pre- and post-September 11 periods. When, in the early period, the principal of École Louis-Riel equates the hijab with neo-Nazi regalia and comments that signs like these could *cause* aggression, or when dress code policies in schools are justified on the basis that girls should not marginalize *themselves*, or when in the wake of the September 11 attacks the response to a female Saudi doctor being attacked on her way to a Montreal hospital is that female students will no longer be on call for nights, the common link here is that the problem to be solved is one of presence. It is the mere presence of Muslim women as Muslim women that constitutes a risk or a threat; this is consistent. And, the racialization of this security threat is clear in that as the source of the dysfunction, Muslim women are the embodiment of threat. If the target is evicted from society or changes herself to fit society,

we can continue to function as per normal. This is a powerful mode of regulation because the promise of inclusion is there. However, underscoring this diversity or pluralism is the ongoing threat that you may be subject to eviction - temporary or otherwise - if your presence proves too disruptive, too distracting or too dangerous.

In addition, Chapter 3 did illustrate that there is a shift in terms of institutions of the state and the ways they are characterized as being in crisis. The Moussiyne case stands as a relatively important exception to the other controversies surrounding Muslim women who veil during this study period. Moussiyne's case is notable in that there is a discernible trend in which commentators locate the roots of the crisis in a *lack* of 'tolerance', in the improper behaviour of judges, as well as in the inaction of the Québec government. Within these narratives, the integrity and the legitimacy of the legal system itself is at stake, given the unrepresentative judiciary and the systemic inaction of the government in implementing cross-cultural training for judges. This case stands as distinctive because it is the institution that is in crisis not *because* of 'diversity', but because it cannot rise up to meet the needs of its 'diverse' legal subjects. The system perpetuates inequality and this is the root of the dysfunction. More consistently, however, the threat to institutions (e.g. public and private schools, private businesses, the electoral system, etc....) is characterized as being caused by diversity. This is notable in that if we see institutions as reproducing the homogeneity of the state, the articulation of who is threatened, by whom and why is an indication of the strategies of governance of the state.

Finally, in the case of York University, Chapter 5 demonstrated that there is a discernible increase in engagement with the language of security and insecurity after 9/11 by the university administration, and not just the language, but also the militarized

mechanisms to ensure security for some on campus. Working alongside this, there is also increasing adoption of a vocabulary of risk as the neoliberalization of the institution entrenches itself further. However, the case study demonstrates a notable continuity when looking at the impact of corporatization and militarization on the university, and the consistent concerns expressed by the York community that these processes are threatening the integrity of the institution. Despite the direct relevance of these trends with respect to, at the very least, the increasing scope of pressure placed on the institution by Israel advocacy groups, these concerns are no longer broadly held by the York community when it comes to the Israel/Palestine exception. Here, the politics of Palestine solidarity activists are characterized as themselves threatening the institution which becomes a vessel for abstract commitments to 'balanced and civil' free speech and academic freedom.

Moreover, what becomes apparent through the pages of the *Excalibur* is that the university is increasingly militarized and privatized *prior to* September 11, 2001, and that this leads to shifts in the regulation of these dissident citizens on campus. This intensification in neoliberalization and militarization of the university is evident in news items in the *Excalibur* in the late 1980s, but intensifies in the early-1990s where concerns are raised over the "complicity of university and college administrations in fueling the apparatus of war by accepting military research and/or investments on campus" (Editorial 1991, 2). This neoliberalization deepens with the slashes to post-secondary education funding in Ontario in 1995 with the election of the Mike Harris Conservative government. And, the increasing militarization of the campus extends beyond funding and investment to the choice by the university administration to resort to the use of external force to quell

student protests, a choice that seems more directly related to the September 2002 protests at Concordia University in Montreal, Québec.

These twin trends of militarization and neoliberalization have a profound impact on how dissident citizens are regulated on York University campus as well as how they choose to mobilize and resist. Over the study period, you see increasing cross-group mobilization and solidarity, with students and faculty identifying themselves as anti-imperialist, anti-occupation and as struggling against oppression, and with groups specifically protesting the institution's complicity in war and occupation, particularly after the post-September 11 invasions of Afghanistan and Iraq. In addition, you see student activists more brazenly and purposefully violating university regulations pertaining to the use of campus space as an attempt to reclaim this political space.

7.2.3 Governing Dissent

As described in this dissertation, the liberal theorists of differentiated citizenship have spent relatively little time considering how the regulation of citizenship is inextricably wound up in how dissidence is regulated. Here, dissidence in part refers to a refusal to be included, a point which challenges the liberal premise that inclusion is necessarily good or 'progressive'. My analysis has demonstrated how notions of governmental belonging, dissident citizenship and regulated inclusion expose and challenge these consistent presumptions regarding the merits of inclusion, as well as the consistent submerging of the costs of inclusion. Moreover, notions of dissident citizenship deepen our understanding of who active and self-governed citizens are, and how citizens mobilize and come together as a political community (Sparks 1997, 74). Certainly, with respect to the subjects of each of the case studies here, it is relevant to consider the ways in which passive belonging figures in.

Yet, passive belonging simply cannot account for the full breadth of the ways in which non-normative, non/citizen subjects are regulated.

For example, when passive belonging is centered, inclusion itself remains fundamentally unproblematized, and the choice to remain excluded is depoliticized. This is certainly the case when we consider the analysis in Chapter 3 which showed the terms of belonging set out for Muslim women in Québec and the heightened pressure to participate, for example, in the reasonable accommodation public forums. And, this is certainly the case when we consider the power dynamics behind dialogue- and peace-base initiatives advanced by supporters of Israel on York University campus, a strategy outlined in the analysis in Chapter 5. By foregrounding passive belonging, the choice to not-engage, to disengage, or challenge the terms of engagement is submerged, erasing a critical way in which we might understand trajectories of citizenship in the Canadian context.

In the analysis of each of these three case studies, two broad trends are apparent when dissent, regulated inclusion and governmental belonging are centered. First, over the time period studied, these subjects are invited into the political realm as objects in that the terms of the invitation are not set by them, and those in power define what constitutes 'normal' politics. Second, over the time period studied, the language of liberalism itself is increasingly deployed strategically to govern dissident citizens and quell dissidence. In this sense, the language of liberalism lends moral weight and legitimacy to strategies of regulation which, in fact, perpetuate oppressive practices.

Invitation into 'the political'

One common feature across the case studies is that while there is certainly active contestation and resistance, non-normative or dissident citizens are invited into the political

realm in exceedingly narrow ways. For example, as demonstrated in Chapter 3, over the time period studied, Muslim women wearing an Islamic veil or headscarf are interpellated into the political realm if, and only if, their clothing causes controversy. Despite complicated, overlapping and shifting rationales for their choice of dress, as well as the reality that Muslim women are politically engaged in broad, varied and dynamic ways, over this period they are invited in temporarily as *objects* of investigation. Their voices are expected to be available primarily for explanation, whether it be to satisfy devotional litmus tests as in the case of Wafaa Moussiyyne, to provide “good enough” reasons for the public display of their religion, or ‘perform’ what they are expected to know during the public forums of the reasonable accommodation commission. The expectations around voice are complex in that there is a complicated interplay between claiming voice, taking on extra labour through and because of this claiming of voice, and the question of what it means to be heard. What is consistent is that there is a narrow realm of subjectivity allowed for Muslim women. Their political voice is limited to questions of religion, and even more narrowly to religious dress. Moreover, the relationship Muslim women have to their faith cannot change unless it means rejecting it. This narrow burden of explanation and justification is present both before and after September 11, 2001.

Certainly in the discussion of security certificates in Chapter 6, neither Suresh, nor Charkaoui, receive *any* invitation into the political realm. They are ultimately treated as static security ‘issues’, divorced from any Canadian political subjectivity. And, unlike the case of Muslim women wearing some kind of Islamic head covering or veil, Suresh and Charkaoui are not even sought out for explanation, with their capacity to intervene in the security certificate process minimal at best. This radical exclusion from the political predates

September 11, 2001. Aiken (2000) for example writes that Canadian law had already, by the year 2000, changed its conception of refugees from characterizing them as victims and survivors to terrorists (55). The relevance here is that the kind of political activism that may be lawful for citizens to engage in becomes grounds for expelling non-citizens (Aiken 2000, 55), ultimately denying them the capacity to dissent or be dissident and ultimately voiding them from our recounting of the citizenship story or trajectory. In this sense, this particular way in which non-citizens are depoliticized and exempt from the political realm means they simply evaporate politically. Yet, if citizenship and non-citizenship are tightly intertwined, how do we reconcile the absencing of the non-citizen in the liberal citizenship narrative?

In Chapter 5, as dissident citizens, Palestine solidarity activists actively claim political space precisely on the basis of their support for the rights of Palestinians. Yet, throughout the time period covered, there are consistent attempts to regulate their capacity to dissent and the legitimacy of their dissent through the definition of what constitutes normal politics. Most broadly, the politics of Israel-Palestine are framed as outside of normal politics; they are exceptional. Consequently, those dissident campus-based citizens engaged in Palestine solidarity work are governed by different rules and may require extraordinary measures and intervention. For example, in reviewing the “Israel/Palestine: Mapping Models of Statehood and Paths to Peace” conference, Masri explains that the report by former Chief Justice Frank Iacobucci identified this conference as “odd and extraordinary in its nature”, and that there would be two sets of criteria governing conferences; criteria for ‘normal’ conferences and criteria for those like the Mapping Models conference (Masri 2011, 110).

The Language of Liberalism

One of the most consistent and entrenched trends over the study period is the way in which the language of liberalism itself is deployed strategically in ways that contain the political world of dissident and non-normative non/citizen subjects, and ultimately have an oppressive impact.

With respect to the regulation of Muslim women discussed in Chapter 3, during the study period covered, dialogue emerges as a clear strategy of governance. In this case study, the commitment to dialogue is heightened during the public forums of the reasonable accommodation commission, however across the study period, there is a presumption that dialogue is always good, debate is always healthy and inclusion is always desirable. The point here is not that dialogue is necessarily undesirable; rather, the presumption that dialogue is a solution to the problem is located within strategies of governance that are fundamentally *not* concerned with establishing the prerequisites for meaningful dialogue. Consequently, for non-normative or dissident citizens, the invitation to dialogue or inclusion itself often comes with a cost. In the case of security certificates, the cost of regulated inclusion is illustrated quite vividly in Sophie Harkat's comments on her husband's release conditions, and in Mohammed Zeki Mahjoub's choice to return to prison.

In the case of the regulation of Muslim women in Québec, the invitation to dialogue is not only coded with purpose, but in the latter period, recodes the legal issue of reasonable accommodation away from its firm rooting in substantive equality. Here, reasonable accommodation is flooded with issues of identity and nationalism, making the courts and the guarantees of law (hence equality), ironically, less well equipped to handle accommodation cases. This movement away from the legal realm can, to some degree be characterized as

disempowering for racialized and religious minorities as their chain of recourse becomes ambiguous. The invitation to dialogue, particularly when it is contained within the bounds of reasonable accommodation, opens up an array of issues for negotiation amongst individuals and groups; these issues are marked by profound imbalances of power at a 'negotiating table' reflecting the same.

In the case of York University and the regulation of Palestine solidarity activists, Chapter 6 describes how appeals to balance and civility, as well as the use of peace and dialogue initiatives also figure prominently in the study period, and cannot be linked specifically to the events of 9/11. Here, the strategic appeal to these liberal principles has been one of the central pillars of Israel advocacy groups, particularly given the appeal the principles hold to proponents of liberal multiculturalism (Saifer 2009, 74). Yet, as explained in the dissertation, the strategic use of liberal language and liberal principles by neoconservatives concerned with policing academic speech and dissent extends as far back as the infamous Powell Memo of 1971, as well as to explicit strategic choices of Israel advocacy organizations like the American Jewish Committee, the Anti-Defamation League, the American Israel Public Affairs Committee, and B'nai Brith after the 1967 Arab-Israeli War (Beinin, 2004, 107). On York University campus, formal adoption of dialogue-based initiatives in order to defuse and suppress Palestine solidarity activism emerge most clearly after 2004, but may be more linked to the formation of National Jewish Campus Life in 2002 than specifically to 9/11. Moreover, as confirmed across the study period, dialogue initiatives seem to emerge after increased periods of successful Palestine solidarity activity, which itself tend to be linked to worsening conditions in the occupied territories.

In this case study, the strategic value of these appeals is more evident than in the two other case studies. The intent of dialogue initiatives is to displace the goals of Palestine solidarity activists which is to end the occupation (Saifer 2009, 78). The attempt here is to recode this struggle in terms of tolerance and civility, and other concepts appealing to the liberal multicultural script, a strategy that finds voice in the York University's Presidential Task Force on Student Life, Learning & Community and in the inquiry undertaken by retired Supreme Court of Canada judge, Frank Iacobucci. The insidiousness of these initiatives is further captured in the discussion of Daniel Pipes' visit to York University and his use of the language of multicultural inclusion to justify his fundamentally oppressive project. As demonstrated in Chapter 5, this strategic use of liberal principles has its lineage in the pre-9/11 period with the discourse of political correctness. In this sense, the notable continuity here that poses problems for liberal citizenship scholars is the way in which liberal principles "...[become] a means by which to adapt to an unjust situation rather than to change it" (Saifer 2009, 78). Here, measures of progress become fundamentally troubled, particularly if inclusion becomes the standard against which the choice to not be involved is labeled as something subversive and/or antagonistic. In this way, the politics of refusal and resistance are worthy of consideration particularly when considering citizenship temporalities.

7.3 IMPLICATIONS AND CONCLUSIONS

This dissertation began by asking the question, 'Have Canadian citizenship discourses and practices fundamentally changed after the terrorist attacks of 9/11, and if so, how?' By integrating the analysis of the case studies, and treating citizenship as a strategy of governance that regulates through race, security and notions of dissidence, the cases demonstrate significant continuity across the pre- and post-9/11 periods. At a minimum,

each of these controversies can be empirically traced back to similar controversies in the pre-9/11 period. In addition, the concepts of the exception, the racial state, dissident citizenship and regulated inclusion help to map out a complex citizenship trajectory submerged in liberal narratives on citizenship and change. The cases demonstrate that the Canadian state has continually been governed through racialized exception, where power is derived from claiming a space of exception, where non-normative, marginalized and dissident non/citizens are delinked from their political and legal subjectivity through securitization and the exception, and where notions of exception are used as a disciplinary form of regulation. Over the time period studied, shifts and intensifications are more readily apparent in the ways in which citizenship is governed through crisis and security. Here, the analysis demonstrated that broad dimensions of in/security are implicated in each of the cases, and that the focus of security or what constitutes being secure is determined by the state or institutions of the state both before and after 9/11. Changes do occur in the post-9/11 context in terms of how institutions are perceived to be at risk, and the strategies used to contain that risk. For example, in the case of the regulation of Palestine solidarity activists on York University campus, there is an increasing militarization of the institution even though this militarization does pre-date the 9/11 terrorist attacks. And, in the case of security certificates, while the fundamental insecurity of security certificate detainees remains by and large stable both before and after 9/11, the security infrastructure in which detainees are positioned does change after 9/11. Finally, significant continuity is evident in how citizenship is regulated through notions of dissidence, where non-normative, marginalized and dissident non/citizens are invited into the political realm as objects, and where the realm of 'normal politics' itself is defined by those with dominant forms of power.

Moreover, there is significant continuity across the time period in the way in which the language of liberalism is strategically deployed to govern and quell dissidence.

This latter point where the language of liberalism lends moral weight and legitimacy to strategies of regulation which perpetuate oppressive practices raises some important implications for Canadian Political Science and how we think about citizenship. How best can political scientists put together accounts of citizenship change and continuity? By foregrounding that racialization, securitization and the regulation of dissent are in fact integral to how citizenship regulates, the narrative offered here is different than where the liberal multicultural literature would take us. This is not a story focused primarily on juridical citizenship and questions of belonging. Rather, a focus on racialization, securitization and the regulation of dissent invites a consideration of citizenship as a “manufactured and contextual political artefact” (Devlin and Pothier 2006, 145) as well as citizenship as a practice. Moreover, the intention here is to craft a citizenship narrative that more fully captures the complexities of being governed as a citizen insider-outsider, as well as complicates the accounts of citizenship trajectories that belie the experiences of citizens who stand at the margins.

The foregrounding of time in my analysis is not intended to determine issues of causality, but rather to contemplate how political scientists can put together accounts of citizenship change *and* continuity. Beyond this, however, this exercise in centering time has also led to some other notable observations or implications. First, and most simply, time matters. We would be well served to lay bare the ways in which dominant literatures are vested in particular narratives of time, narratives that are deeply political. In this sense, the attention paid to time, change, and critical junctures in the fields of sociology and

anthropology may be of use to Canadian political scientists probing questions of Canadian citizenship.

Second, citizenship is not simply regulated or acted up; we are regulated through citizenship. In this sense, there is nothing 'natural' about the category of citizenship, and nothing static about this category, meaning that citizenship and citizens cannot be neutral variables that can be controlled for the purpose of analysis. Relatedly, there is not a natural evolution of citizenship.

Third, this analysis has demonstrated the ways in which securitization has a substantive impact on the breadth and depth of our engagements with citizenship. As Nyers (2009) suggests "some of the most distinctive political acts today involve inclusions that are enabled by employing 'risk', 'danger', or 'insecurity' as categories." (4) The fear and unease caused by discourses of in/security do not simply create subjective experience -- rather, securitization and discourses of risk are critical to the formation and regulation of political subjectivities (Nyers 2009, 3 - citing Massumi 1993).

Fourth, liberal theories of differentiated citizenship rely on certain cues or signals by which to measure or assess citizenship and progress, for example rights, representation, and certainly inclusion. But inclusion, recognition, and the acceptance of diversity are not linear. Put differently, how we measure 'progress' is deeply political and those elements in the liberal script that we signal as progress – inclusion, tolerance, diversity, balance – might actually flag deep oppression and repression, therein complicating our timelines of citizenship change even further. For example, as noted in Chapter 4, the now closed Kingston Immigration Holding Centre (KIHC), or Guantanamo North, was built in 2006, specifically for security certificate detainees, on the grounds of a maximum security prison. KIHC was not

officially a prison, meaning that those named in security certificates did not have access to the same resources available to those imprisoned through the Canadian criminal justice system. As opposed to official prisoners, detainees are not expected to be rehabilitated or detainees are not expected to be reintegrated into society, yet detainees are subject to the same modes of regulation underscoring the prison industrial complex. Larsen and Piché (2009) noted for example that staff at the KIHIC received extensive 'cultural training', and their operating guidelines made allowances for certain religious practices, including the provision of halal food. In one draft prison document, there was even talk of spatially positioning detention units in a north-east direction to facilitate prayer for Muslims (Larsen and Piché 2009, 222). How do we read this when we rely on abstract cues such as inclusion, diversity, accommodation, and tolerance? In part, the problem here is that these abstract cues such as 'inclusion' concretize the authority of the borders to be included into, and in doing so renders all things associated with that space neutral and apolitical.

Fifth, and related, the way in which citizenship regulates through race, security and notions of dissidence is differential. For example, in the case regarding Muslim women, the mode of regulation is through the depoliticization and the erasure of race and racism. Here, racism is not characterized as systemically entrenched, it is unintentional and attitudinal; real racism is intentional and motivated. In the case of York University, while recognition of anti-Muslim racism is suppressed, there is heightened recognition of anti-Semitism, and specifically the new anti-Semitism. Where in the mid-1990s, student codes of conduct and equity policies were seemingly in place to protect the most marginalized university community members – and then attacked as being politically correct on that basis – in the

latter period, Israel advocacy organizations use student codes of conduct in their overbroad definition of anti-Semitism as forms of regulation with oppressive consequences.

Sixth, reading these case studies alongside each other demonstrates the ways in which the citizenship of non-normative and dissident non/citizens is deeply co-implicated. Put differently, the very real precariousness in the lives of non-citizens is not neatly counterposed by a coherent and stable status for all Canadian citizens, and the precariousness of citizenship and non-citizenship is not anomalous, at least for bodies marked in particular kinds of ways. Rather, profound insecurity is fundamental to how citizenship regulates, particularly within a settler colonial context. For example, in my analysis of Muslim women in Québec, Muslim women are profoundly decontextualized in the texts. Their insecurity is entirely disconnected from the insecurity of Muslim men who are targeted by the security regime referenced in the case study on security certificates, and the whole of their in/security is contained by the issue of how they dress. This suggests no relationship of solidarity between Muslim men and women. Consequently, while my analysis of Muslim women in Québec shows much continuity in the pre- and post-September 11 contexts, this may not be the case when we account for the shifting insecurity of Muslim men. Where critical race scholars have introduced the concept of differential racialization, some notion of differentiated citizenship might account for the ways in which marginalized citizens are embedded and implicated in not just the security of dominant citizens, but in the insecurity of others who are similarly marginalized. Moreover, in this way the almost complete absence of settler colonialism in mainstream liberal citizenship scholarship threatens to destabilize the entire analysis, particularly if and when the interest is in unpacking inequality or oppression.

Seventh, reading these case studies alongside each other demonstrates the ways in which a fixation on the borders of the state cannot account for complexity of scales through which citizenship is regulated. In this sense, mainstream liberal citizenship theory's focus on domestic citizenship belies the reality that the regulation of citizenship is profoundly transnational. Put differently, our conceptions of time with respect to transitions in the regulation of citizenship have scalar dimensions - both transnational and subnational. Consequently, while the borders of the state remain important sites of analysis and important sites of power, Kevin Bruyneel's suggestion that we speak not of the state, but of statism or state practices may be helpful in allowing us to think through the geographies of citizenship space (2010, 4). Just as time itself has to be insisted upon, moments of struggle over space are ones of "acute political conflict" and they are deeply pedagogical moments that teach us about the appropriate use of space (O'Connor 2009, 3).

Eighth, in each of these cases, race is erased. Canadian citizenship has always been precarious for bodies racialized as non-white, and histories to the contrary require a radical dehistoricization. But, this is not simply an absence or an erasure. This kind of erasure requires work -- it is sustained and maintained and is a strategy of domination. In tracking discourses and practices of citizenship across this time period, these citizenship stories read as a long list of disciplinary lessons that accrue slowly over time. In this way, there is a pedagogy at play here: "Democracy cannot work if citizens are not autonomous, self-judging, and independent....pedagogy becomes the cornerstone of democracy in that it provides the very foundation for students not merely to learn how to be governed, but to be capable of governing" (Giroux 2006, 34). What this suggests is that we do need a conception of

citizenship that can account for the fact that different modalities of power (sovereign, disciplinary, biopower) are implicated in the regulation of non/citizenship.

The final point to be made here is the theoretical end point for this research and a future jumping off point. The title of this dissertation is “Far From Belonging: Race, Security, Dissent and the Canadian Citizenship Story after 9/11”. Both critical and mainstream scholars of citizenship in Canada often engage in an analysis of citizenship using a belonging framework, whether it be focusing on governmental belonging, as has been the case in part here, or substantive and formal belonging, belonging and nationalism, belonging and identity, and so forth (See for example Banting et al. 2007). When we look at the three case studies examined here, there is something very coherent about the continuities across them. Even though the case studies reference different institutional contexts, different political subjects, as well as both citizens and non-citizens, these stories read together with ease. Yet, it does not seem that these stories are really about belonging or that these are stories about crises of affective belonging. For example, the ultimate consequence of security certificates is deportation, even if deportation will result in torture and/or death. This form of violent insecurity is not unrelated to the regulation of Muslim women and Palestine solidarity activists. The suspicion raised at the end of this dissertation is that belonging is not the fine edge upon which citizenship operates. Where community as a form of solidarity is about belonging, citizenship is not about community. While critical scholars may use belonging to recognize a process of power and tension, the belonging framework threatens to recode citizenship into something it is not. This is a problem because even in critical uses of belonging, there seems to be the assumption of a closing, and an opening, or a holding out for a possible end point. Yet, as demonstrated in this dissertation, the way in which

citizenship regulates defies any notion that there is an end-point to belonging or that there can ever fully be a state where belonging has been achieved. Rather, citizenship and non-citizenship are regulated through ongoing insecurity, an insecurity that is transnational. Consequently, this insecurity troubles the domestic borders that frames of belonging tend to reinforce, and recognition of this opens up possibilities for considering why marginalized subjects may wholeheartedly resist belonging. In this sense, the analysis and subjects here take us far from belonging, and offer possibilities for alternative renderings of time, citizenship and ultimately resistance.

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