Bordering non-citizenship assemblage through migrant legibility: 
A conceptual framework for tracing hidden forms of legal and bureaucratic violence

Lindsay Larios
Faculty of Social Work, University of Manitoba, Winnipeg, Canada
Email: Lindsay.larios@umanitoba.ca

Rupaleem Bhuyan
Faculty of Social Work, University of Toronto, Toronto, Canada
Email: r.bhuyan@utoronto.ca

Catherine Schmidt
Faculty of Social Work, University of Toronto, Toronto, Canada
Email: cathy.schmidt@mail.utoronto.ca

Heather Bergen
School of Social Work, York University, Toronto, Canada
Email: hbergen@yorku.ca

ABSTRACT:
In this paper, we conceptualize legibility as a bordering practice where migrants seeking to maintain status or transition to permanent residency in Canada must negotiate the dynamic milieu of a) laws and regulations governing immigrant inclusion, b) bureaucratic processes for verifying eligibility and admissibility, c) and informal social networks which can expand or restrict access to information and resources. Using two case studies from empirical research with migrants in Canada, we attend to the legal, bureaucratic, and social processes through which migrants must prove their humanity (i.e., biopolitical life) in the context of unpredictable, heterogeneous, multi-scalar, and often hidden forms of legal and bureaucratic violence. Through theorizing the legal and bureaucratic violence of legibility, this paper illustrates the historical, political, and economic conditions through which migrant illegality and patterns of imperial/colonial/racial/gendered ordering operate in tandem with neoliberal multicultural constructions of equality and inclusion of autonomous and self-sufficient individuals.

KEYWORDS: undocumented immigrants, non-citizens, migrants, legal status transition, bureaucratic violence, bordering, assemblage, legibility, immigration, Canada

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1. Introduction

Canada has a global reputation as one of the most welcoming countries for immigrants (Esipova et al., 2020), as reflected in the Liberal government’s official platform, high levels of new permanent residents admitted each year, alongside positive public opinion of immigrants as contributing to Canada’s economy, and self-image as a humanitarian, multicultural society (Focus Canada, 2020). Canada is also seen as a world leader in third country refugee resettlement, receiving 28,100 of the 92,400 United Nations Convention Refugees who were resettled in 2018 (Radford and Connor, 2019). One in five Canadians today were born outside of Canada and trace their origins to over 200 different countries (Statistics Canada, 2017).

Against this ideal, a growing proportion of Canada’s population are migrants who are granted a temporary resident permit to study, work, unite with family, or seek asylum, with conditions on their access to social benefits, right to remain in Canada, dependence on third party to remain in Canada (e.g., employer, sponsor) or right to reunify with family members who reside outside of Canada (Bhuyan and Smith-Carrier, 2010; Goldring et al., 2010). While the total number of new permanent residents has grown, from an average of 235,000 per year throughout the 1990s and early 2000s (René and Hélène, 2016) to a high of 405,303 in 2021 (El-Assal, 2022), in comparison, the number of migrants who enter on temporary resident permits to study and/or work has increased sixfold contributing to a total of 1,696,871 temporary resident permits issued in 2019 to temporary workers, international students, and refugee claimants (Hou et al., 2020; Immigration Refugees and Citizenship Canada, 2020). More stringent requirements on migrants applying for permanent residence within Canada, delays in processing applications, and exclusion of migrants who are criminalised or deemed “fraudulent,” and investment in a multiple border strategy designed to deter, intercept, or detain asylum seekers and other “improperly documented migrants”
(Arbel and Brenner, 2013, p. 2) also contributes to a growth in irregular and thus deportable migrants (Ellis, 2015, p. 10).

While Canadian immigration policies previously prioritised permanent settlement of immigrants from abroad, since the 1990s, Canada has moved towards a “two-step” immigrant selection process. This is driven in large part by increases in temporary migration whereby employers recruit migrant workers to fill labour needs at a lower cost and universities to collect international students’ tuition to make-up for budgetary cuts in public spending on higher education (Usher, 2018). As a result, Hou and colleagues (2020) reported that “the number of temporary foreign residents who held work permits grew sixfold from 66,600 in 2000 to 429,000 in 2018” (p. 4), while the number of international students also grew from 122,660 in 2000 to 530,540 in 2020. The smaller pool of these temporary residents can successfully transition to permanent residents, representing “a relatively privileged class of high-skilled workers who have more labour rights and transition pathways than their low-skilled counterparts” (Akbar, 2022, p. 1). The vast majority of migrants who have a temporary status in Canada are either ineligible to apply for permanent residence due to restrictions on their visa (e.g., seasonal agricultural workers) or are unable to meet the stringent eligibility requirements for permanent residence (e.g., employment in a “skilled occupation,” language fluency and financial resources).

Thus, while migrants granted temporary resident visas may have authorization to work or study in Canada with some access to public services, their differential inclusion is conditioned by the restrictions associated with their immigration status and the complex, expensive, and unpredictable bureaucratic processes needed to maintain or apply for any changes in status (Goldring and Landolt, 2021). As many migrants are also racialised as minorities in Canada, migrants with precarious status also face discrimination when seeking affordable housing, decent
employment, and essential social and health services (Bhuyan et al., 2016; Magalhaes et al., 2010; Oxman-Martinez et al., 2005). Precarious immigration status has long-term negative impacts on immigrants’ household income (Goldring and Landolt, 2011; Tungohan et al., 2015), prolonged transnational family separation (Bernhard et al., 2009; Pratt, 2012), and contributes to declining physical and mental health (Brabant and Raynault, 2012; Villegas, 2013). Navigating the legal and bureaucratic conditions to either maintain their temporary status or apply for permanent residence requires significant legal knowledge, resources to pay for application fees, and long periods of time spent awaiting a decision (Goldring and Landolt, 2021).

Towards understanding the sociopolitical practices that shape transitions in precarious immigration status, in this paper, we present an integrated framework to conceptualise how the institutionalization of state-centric immigration categories across Canadian society dynamically assembles differential inclusion and systemic racial, gender, and class discrimination of migrants. Drawing on theories of bordering, legibility, and non-citizenship assemblage we conceptualise migrant legibility as a bordering practice through which migrants striving to either maintain their temporary resident status, or transition to permanent residence in Canada, must seek legal recognition through the dynamic milieu of a) laws, regulations, and bureaucratic processes that govern their eligibility and admissibility in Canada’s immigration system, b) legibility within education, healthcare, and the labour market systems, and c) informal networks that expand or restrict access to information and resources needed for legal recognition during periods of economic and social precarity.

Our conceptualization of migrant legibility brings into conversation the ideological and knowledge practices used by states to make populations “legible” (Scott 1998) with bordering scholarship that examines the nation-state as a project of continuous social, spatial, and temporal
ordering (Grosfoguel et al., 2015). As Sharma (2007) has argued, the primary function of borders and state-centric immigration categories is less about restricting movement into the territory per se than about differentiating among groups of people who occupy the same imagined space of a nation. Legal immigration statuses organise the social, political, and economic resources available to migrants while authorizing state surveillance through the collection of biometric data, identity documents, and financial records (Villegas, 2015). Migrants in turn take part in making themselves “legible” to both state and nonstate actors, as they negotiate their differential inclusion and conditional entitlement to social, political, and economic rights (Bakan and Stasiulis, 2003; Basok, 2008).

Using a governmentality lens (Foucault, 1979, 1989), which considers how “power is omnipresent” (Flores, 2019, p. 265) in all social relations (Sharma, 2001, 2007), we draw upon conceptualizations of varied forms of non-citizenship as an assemblage of “social actors, relations of power, regulations, discursive frames, bureaucracies, [and] sectors” that act together in “patterned and changing ways” (Landolt and Goldring, 2015, p. 854). Considering migrant legibility as an “assemblage” draws attention to transitions from temporary status to permanent residence and ultimately citizenship as comprised of dynamic and complex social relationships which produce uncertainty in both the trajectory, moving towards or away more precarity, but also the variable impacts on social, economic, and political rights (Landolt and Goldring, 2015; Villegas, 2015). While illegibility can result in extreme forms of exclusion and structural violence through indefinite detention or deportation, we attend to the legal, bureaucratic, and social processes through which state and non-state actors construct, reify and challenge migrants’ legal recognition in everyday life in ways that often elude connection to policy intent or accountability.
In the remainder of this paper, we first provide an overview of scholarship on non-citizen assemblage, bordering, and legibility then outline our conceptual framework for exploring migrant legibility as a bordering practice. We then use two case studies from empirical research with migrants who have a precarious status in Canada (Authors’ publications withheld for peer review) to illustrate how legibility of non-citizen assemblage requires migrants to prove their humanity (i.e., biopolitical life) in the context of unpredictable, heterogeneous, multi-scalar, and often hidden forms of legal and bureaucratic violence. Theorizing the colonial mechanisms of bordering through the legal and bureaucratic violence of migrant legibility, this paper advances understanding of the historical, political, and economic conditions through which migrant illegality and patterns of imperial/colonial/ racial/gendered ordering operate in tandem with nationalist constructions multicultural equality and justice.

2. Assemblages of Precarious Immigration Status in Canada

We draw upon theories of assemblage, initially developed by Deleuze and Guattari (1987) to conceptualise dynamic arrangements of social “conditions, their elements, and agents” (Nail, 2017, p. 24) then taken up by migration scholars to theorise global forms of assemblages (Collier and Ong, 2005). Extending Foucault’s (1971) attention to biopolitical subjectivity and Arendt’s (1958) discussion of “national oikos” (referring to social conditions in which biological and political life have become intertwined), Collier and Ong (2005) outlined the dynamic processes through which “material conditions, social interactions, ideologies, and biological being” (p. 6) are heterogeneously deterritorialised and reterritorialised.

In the Canadian context, Landolt and Goldring (2015) theorised assemblages of state-centric categories for citizen and non-citizens as fundamentally characterised by conditionality
(i.e., contingency and indeterminacy), but also through “individuals and institutions that negotiate and navigate the formal and substantive systems that confer or deny rights to remain present in a county, and to access entitlements” (p. 854). The evolving categories of non-citizenship, referred to as precarious legal status (or precarious immigration status), includes legally recognised immigration categories such as temporary foreign workers, international students, tourists or other temporary residents, refugee claimants, and those who have fallen out of status or are undocumented (Goldring et al., 2010; Oxman-Martinez et al., 2005). Common across all categories is institutionally-produced conditionality of presence and access – that is, a person’s legal presence in the country and ability to access certain recourses and services is conditional upon fulfilling a set of institutionally-produced state criteria and/or upon a third party such as an employer, university, or family member. While some of these categories may provide a pathway toward recognition as a full legal citizen of Canada, these pathways have been described as more akin to “chutes-and-ladders,” with directions in status transition as directionally unpredictable and variable (Goldring & Landolt, 2021). Furthermore, extended periods of immigration precarity have long-term consequences on family reunification, employment, and household income even if a person eventually achieves permanent residence or citizenship (Basok and Rojas Wiesner, 2018; Tungohan et al., 2015).

We consider the concept of conditionality associated with non-citizenship to illustrate the colonial underpinnings of the Canadian immigration system (Villegas et al., 2021) and the expansion and maintenance of precarious immigration status. To deepen our understanding of legal and bureaucratic processes that produce conditionality and their implications, we bring the assemblage theory of non-citizenship with its emphasis on conditionality into conversation with
theories of bordering and legal and bureaucratic violence to investigate these assemblages of conditions as a violent bordering practice.

3. Bordering in the Multicultural Canadian Settler State

Building upon scholarship on bordering as an everyday practice, we consider how non-citizenship assemblage is produced through a diffusion of political and social processes where state belonging, identity, status, and rights are negotiated (Bhuyan, 2012; Villegas, 2020; Yuval-Davis et al., 2018). Canada’s formation as a white settler society through the dispossession of Indigenous peoples from their territories and cultural genocide (Blackstock, 2016) remains salient to the continued exclusion or marginalization of racialised non-white “others” including Indigenous communities, people of African origin who were forcibly displaced and enslaved through the Atlantic slave trade or Asian migrants recruited as disposable labour in Canadian railway, logging, and agricultural industries (Maynard, 2017; Walia, 2021). Pervasive colonial policies maintain stark inequality for Indigenous populations across all indicators through displacement, environmental racism, cultural genocide, and deprivation of basic rights. Systemic racial inequality in the labour market, education system, child welfare and criminal justice systems similarly maintain inequality among non-European migrants who are racialised as “visible minorities” by the Canadian government (Block and Galabuzi, 2011; Maynard, 2017; Sharma, 2006)

In the context of globalization, bordering practices serve global capital by producing marginalised populations to be exploited (Walia, 2021). For Flores (2019), “nation-state/colonial governmentality… seeks to produce subjects who conduct themselves in ways that align with the interests of the nation-state and neoliberal governmentality that seeks to produce subjects who
conduct themselves in ways that align with the interests of transnational corporations” (p. 49). Thus, border governance is enacted "not as a spatially located physical [object], but as assemblages of practices performed by various actors... [through] socio-temporal practices and their jurisdictional games.” (Moffette and Vadasaria, 2016, p. 1). Neoliberal restructuring of Canada’s immigration policies since the 1970s which replaced racial preferences with human capital indicators, nevertheless, produces what Walia (2021) describes as a “[perfect] system of labour discipline and racial exclusion” (p. 8). Capitalism is thus central to migrant legibility within the nation, as it facilitates the exploitation of some (primarily racialised) migrants, who are channeled into low-wage work, kept immobile within the labour market, and often excluded from the state’s social programs, while more privileged mobile migrants strive to meet neoliberal ideals of self-sufficiency and market utility (Ong, 1999).

While the modern liberal state authorises individuals’ legal relationship within its territory, the affective power of multicultural ideology recruits the population to participate in the bureaucracy of the nation and its everyday bordering practices, even as economic insecurity and inequality in the neoliberal nation-state grows (Wingard, 2013). As such, migrants, alongside state and nonstate actors negotiate the boundaries of citizenship and belonging through administration of legal codes, participation in the labour market, social-cultural practices, and expanding non-citizen rights within a state and global market (Bosniak, 2000; Coutin, 2005; Tungohan, 2017). These boundaries operate through a wide range of public agencies and bureaucratic practices (Alpes and Spire, 2014; Heckert, 2020) to regulate the population “even in instances in which the actors involved do not conceive of a state presence” (Sheehan, 2018, p. 153). Through theorizing how bordering operates through different bureaucratic sites (e.g., the
labour market, health care), we seek to give meaning to situations that otherwise appear as unpredictable or absurd (Guarnizo, 2012).

4. Biopolitics of Migrant Legibility and Bureaucratic Violence

A state’s power lies in the ordering effect of its bureaucratic practices. In the Foucauldian tradition of governmentality, Scott (1998) described a major component of statecraft as the work of making a “society legible” (p. 2) – that is, knowable, surveyable, manipulable. Through the process of establishing standardised bureaucratic processes, legal systems, languages and discourses, modes of measurement, and maps, the state emerges as a centralised power able to act in accordance with this knowledge (Foucault, 1980; Hall, 2001; Scott, 1998). The state is manifest in these everyday practices that become normalised, the “structural effect” of its governing practices, and a population that has become governable (Midgette and Meggert, 1991, p. 94). Although some forms of legibility are easily identifiable (e.g., a Canadian passport), the bureaucratic and social processes through which the boundaries of legibility are negotiated are dynamic, complex, and thus difficult to trace. Through legibility, members of the society become “known” and have opportunities to gain access to state resources and services. On the other hand, the work of legibility is also border work that is constitutive of the violence of exclusion.

Research examining the role of bureaucracy in immigration as well as levels of discretion provided to individual “street-level bureaucrats” (Lipsky, 2010) has revealed a variety of ways in which the bureaucratic practices of establishing legibility are experienced as violence by those navigating them. Bureaucratic violence is described as the “violent outcomes of bureaucratic processes” that could have been avoided (Näre, 2020, p. 5), especially in cases where the law may not be overtly exclusionary, but the implementation of policies or laws via the bureaucracy can
lead to exclusion that threatens a person’s safety, wellbeing, self-actualization (Heckert 2020). Examples include certain instances of bureaucratic discretion – for example, when embedded in organizational “cultures of suspicion” (Alpes and Spire, 2014); ambiguous, complex, or seemingly contradictory legal or bureaucratic processes (Heckert, 2020; Sheehan, 2018); and the sheer volumes of paperwork, documentation, and waiting times that create delays and uncertainty.

Participating in these bureaucratic processes makes individuals legible to the state. The state comes to know the migrant population through mandatory health checks, criminal record checks, records of employment, and many other pieces of information required for acquiring and maintaining immigration status. As such, these are also processes of surveillance that become the basis for further violence – for example, detention and deportation (Villegas, 2015). On the other hand, the state’s practical or strategic choice to not pursue legibility may also result in unacknowledged violence (Kalir and van Schendel, 2017). The move not to collect data or implement inclusive bureaucratic categories renders populations invisible or inconsequential and resolves state of responsibility through “strategic ignorance” grounded in limited capacity or political motivations (Boswell and Badenhoop, 2020).

Within the Canadian nation-state, power is subsumed within the colonial and capitalist logics of multicultural neoliberalism (Abu-Laban and Gabriel, 2002; Kymlicka, 2013). Bureaucratic processes of legibility, when seen through the lens of “bordering,” are not only about maintaining state power but also about interpolating subjects who adhere to liberal ideals of equity and inclusion alongside, competing and often contradictory, neoliberal indicators of self-sufficiency, individual responsibility, and market flexibility (Bhuyan et al., 2020). Migrant legibility, and the borders it erects, are enacted in population-specific ways that become a mundane and taken-for-granted part of the governance of certain groups of people who carry the promise of
integration, while identifying those who pose a threat to the nation (Ahmed, 2000; Dhamoon and Abu-Laban, 2009; Walia, 2021).

5. Framework for Migrant Legibility as a Bordering Practice

We build on these literatures and our respective projects to develop a conceptual framework for understanding immigration status transition as an assemblage of bordering practices centring on migrant legibility. Immigration status is understood as a form of migrant legibility that defines a person’s relationship to the state with respect to longevity (e.g., length of visa, access to permanent residency), the activities the person is permitted to take part in (e.g., authorised work, enrolment in an educational institution), and the entitlements they will have access to (e.g., publicly funded health insurance, labour protections, public education, family reunification). The process of maintaining a legal status or transitioning in, out, and across different levels of legibility is comprised of an assemblage of various relational dynamics.

Collectively, these literatures point to three types of key relationships that shape a person’s immigration trajectory with respect to increased stability or increased precarity – namely, legal relationships, bureaucratic relationships, and social relationships.

1. Legal relationships are defined here as people’s direct relationships to the state as outlined in the laws and regulations. This may include protections guaranteed by law, but also exclusionary effects that have come to be normalised and have “cumulative” impact (Menjivar and Abrego, 2012). This is the most formalised of the three relationships and therefore the most stable, but also the least responsive to negotiation outside formal court or legislative processes.
2. *Bureaucratic relationships* are defined here as a people’s relationships or interactions with all kinds of non-political state actors and processes, for example frontline workers and administrators that regularly interface with the public and the systems they oversee. Relationships that fall within this category could include teachers, health workers, social workers, public defenders, CBSA and border officials, agents who assess visa applications, for example. In many cases, these are key actors involved in the implementation of a given policy who, as public servants, have some formal obligation to intervene when asked, and whose response is shaped both by individual discretion and institutional constraints, norms, and processes (Lipsky, 2010). This can include, for example, the level of scrutiny given to certain paperwork, the level of flexibility given to assessments and criteria, gatekeeping or facilitating access to certain institutional knowledge or processes, all of which may also be influenced by the types of training and social position of the public servant (Alpes and Spire, 2014; Tomkinson, 2018).

3. *Social relationships* are defined here as people’s relationships with non-state actors within their personal or extended networks, which may include family members, friends, acquaintances, employers, for-profit service providers, and other community members or social actors. Who is included within a person’s social network and the dynamics of those relationships and the processes they introduced are shaped in part by one’s social capital (Coleman, 1988). In that sense, these relationships become socially defined and determined by one's social position. These relationships are the most variable, but often play a key role in transitions between status (Goldring and Landolt, 2021). Through social relationships, non-state actors may provide advice or knowledge and connections that lead to employment or access to other services. These relationships may also be sites of bordering
through threats to report status to immigration authorities, abuse, or exploitation (Villegas, 2015; Yuval-Davis et al., 2018).

Relationships in each of the above domains are shaped by dominant discourses and narratives of respective groups in relation to their place in society, as well as different levels of socio-economic or political power that each party occupies. As such, each relationship also represents a site of potential bordering that can facilitate stability or precarity. Within each bordering site social actors have different degrees of discretion that shape whether and how they will act. Each relationship, therefore, also represents a negotiation and moment of individual agency as a person responds, accepts, resists, or strategizes (Tungohan, 2017; Tungohan, 2018). These relationships also inform each other – for example, someone in a person’s network (“social relationship”) may have a specific expertise that helps them convince a frontline worker (“bureaucratic relationship”) to grant them an exception on a given condition (“legal relationship”). The impact of these relationships is felt in various institutional contexts or policy sectors – for example, immigration, healthcare, family policies, employment and income security, and the legal system. These policy sectors are also interconnected in that what happens in one can impact the others.

6. Application of Framework: Two Case Studies

We present two case studies from empirical research with migrants who have a precarious status in Canada to illustrate how legal immigration status in conjunction with intersecting oppressions shapes access to permanent residence, as well as education, employment, health care and social assistance. The first case study, Carmen, is selected from in-depth interviews conducted with women who have experienced pregnancy while having precarious immigration status in
Canada, examining how issues of precarious migration and conditional access to services and resources manifest as reproductive injustice within the lives of migrant pregnant people and parents (for study details see author publication). The second case study, Tatiana, was selected from qualitative research that explored the settlement experiences and transitions in immigration status for immigrant women living and working in large and mid-sized cities across Ontario (for study details see author publication).

6.1 Carmen

Carmen is a Latin American woman who entered a legal relationship with the Canadian state by claiming asylum in 2009. As a signatory to the United Nations Refugee Convention, Canada is obligated to allow non-citizens to make asylum claims (with some conditions), adjudicate whether they fit the codified definition of refugee, and give them permanent residence (PR) if they do. Claims are assessed by a member of the Refugee Protection Division of the Immigrant and Refugee Board (IRB), an independent administrative tribunal. Members who adjudicate refugee claims are positioned as impartial decision-makers who assess and interpret the evidence that the asylum seeker providers, using the professional judgement and discretion whether the claim fits the established criteria for protection; however, in practice decisions are shaped by a myriad of different factors (Tomkinson, 2018). As an asylum seeker seeking PR in Canada, her challenge is to make her claim legible in the way the system expects – by providing documentary evidence and oral testimony as someone who experienced a recognised harm within her home country and that her home country failed to protect her from this harm. The centrality of this bureaucratic relationship in determining Carmen’s immigration trajectory cannot be overstated. After two years living in Toronto, Canada, her claim was rejected. As Carmen explains,
When I applied as a refugee, I was like, “how come their judges believe” – because I saw a lot of cases before – “believe theirs’ and he doesn't believe me?” And he put a lot of stuff [in the final report] – that you can come back, and you can return – because he's in Canada, and he doesn’t see it another way. And then he believes everything that was in print, in the newspapers and everything. [...] But he doesn't know because he isn't there, right? That's the only thing that I see that – it was like, it's not fair.

Carmen compares her experience with others she knows who were similarly positioned but had their claims approved, alluding to the discretionary practices of different adjudicators and different modes of presenting legibility as a refugee in a “believable” way. Notably, Carmen is from a country with a valuable trade and labour migration relationship with Canada, which has during this time was listed as a “safe country” by the Canadian government. This agreement protects Canada’s economic interests while bordering migrants from seeking refuge from violent conditions (Bhuyan et al., 2016). As an asylum seeker from a country previously designated a safe country, Carmen had a higher bar to prove her legibility as a ‘refugee’. As reflected in Carmen’s experience, while migrants are readily accepted as legible for precarious temporary work, ascertaining legibility as a refugee or permanent resident requires countering this historically embedded image of Latin American migration.

Carmen was assisted throughout the process by a pro-bono volunteer lawyer – a non-state actor, or social relationship, that helped her navigate the bureaucratic and legal relationships. After the initial rejection, Carmen appealed the decision. She describes, however, that her lawyer requested a change of date for her appeal but did not update her on the change, resulting in Carmen missing the appeal hearing.

They don't care – that's it, I missed that appeal date. And then I went to the immigration office, and then they denied me [a new appeal date]. I presented the proof and everything; they denied it. And then after that, they gave me the deportation [order].

In addition to bureaucratic relationships, social relationships, or those with non-state actors, can be equally pivotal. Migrants like Carmen frequently turn to non-state actors, such as lawyers,
whose knowledge and expertise can assist in negotiating the bureaucratic relationship. Although the refugee determination process is ostensibly about recognition of a person’s need for protection (legal relationship), navigating this process requires knowing and following the rules of the bureaucracy (bureaucratic relationship). People without this knowledge must rely on third parties (social relationships) to assist them through this process. Knowing the bureaucratic procedures has no relation to a person’s need for refuge, yet it ends up playing a key role in determining the outcome. Gaining legibility as a refugee is not only about providing the documents and evidence that support this claim but providing them at the right time and in the right way. In this context, misinformation or miscommunication can also derail a person’s immigration trajectory, like it did for Carmen. However, unlike her hearing with the IRB where she could appeal the decision, there was no answerability or accommodation for the miscommunication of the lawyer.

After she received the deportation order, Carmen chose to stay in Toronto for fear of returning to her home country and because of the support she found in her Canadian community. She rented a room from a close friend, worked at a local community centre, and relied on a community clinic for healthcare. In this respect, her social relationships facilitated some elements of substantive citizenship that supported her overall well-being and sense of belonging in her local community. During her time living without status, she also met her future husband and became pregnant. After the birth of their child, Carmen and her husband applied for inland family sponsorship. After living without status for seven years, her application made her legible to the state once again – but not as a wife, mother, or future citizen, but as someone without status who did not belong. Bordering practices reify the hierarchy of power embedded within these relationships. The deportation order, which defined Carmen’s legal relationship with the state, was
more consequential than her social relationships, including her family and sense of belonging in the community.

I applied for [spousal] sponsorship inland, but I think they knew that I have a deportation order. So, they got my address, and they detained me. […] When they came, I made a mistake and [opened the door] to them, and they came in right away, and they didn’t leave me. They took me with them. [My child] saw that.

I appealed for them to let me stay in the country until the process was finished, and nope, they didn’t want me. We went in front of the immigration officer, and he said no. We went to the federal court, he said no. So, I have to come back [to my home country] and start the whole process over again.

While Carmen’s relationship with her husband (social relationship) opened another pathway to PR, the bureaucratic relationships – choices made by officers of the Canadian Border Services Agency (CBSA), the department of immigration, and the courts – ultimately determined her immigration trajectory, as well as her family life.

When we came [back to my home country], I told [my child] the truth – “I applied there, they said no, so we have to wait here.” He knows already—every time he wants to go back, “When you get your papers, Mommy, we will go.”

Carmen and her child returned to her home country where she was permitted to reapply from outside of Canada. They communicated with her husband every day to maintain their relationship, which also served to maintain their legibility as a family.

So, in the meantime, I don’t work, and in the taxes, he puts me […] as a spouse, because we got married. So, he includes me in everything, so that helps me with the application as well. So, I was out of status, but not out of his life.

The symbolic violence of this disruption to family life and the mental, emotional, economic toll of maintaining relationships transnationally serves as a tacit punishment for her initial resistance to deportation. After just over a year apart, Carmen’s family sponsorship application was approved and her and her child returned to Canada.
Each of these key junctures across her immigration story was experienced as a bordering process – from the rejection of her initial asylum claim, navigating life without status, the rejection of her first family sponsorship application, and deportation. Carmen’s story also illustrates the impact of these processes and the relationships she had to navigate on her overall trajectory. Ultimately, her illegibility as a refugee also made her illegible as a spousal sponsorship applicant. She could only become fully legible as a spouse and mother after complying with the deportation order – as stated above, the legal relationship took precedent.

6.2 Tatiana

Tatiana is a South American woman who came to Canada on an open work permit as the spouse of an international student. Both Tatiana and her husband, Juan, embody traits that respond to Canada’s recruitment of “skilled-workers.” She has a master’s degree and they had both worked for several years in corporate management positions for multinational companies. They decided to immigrate to Canada to provide a better life for their future children. Tatiana’s sister and brother-in-law immigrated to Canada over 10 years ago and are now Canadian citizens raising two children. Tatiana saw her nieces as having an ideal life in a society she perceived as more equal than her country of origin.

Understanding what was required to be seen as legible as a permanent resident withing Canadian immigration bureaucracy required Tatiana and Juan put time and resources into researching and planning, becoming well acquainted with immigration selection policies and developing an understanding of how they could best meet requirements for eligibility for PR (Landolt and Goldring, 2021). They first consulted with a lawyer who advised them to apply for PR from abroad through the skilled worker program. But after researching recent statistics and
information on pathways to PR, the couple decided that they would have a better chance if they first came Canada to study and work on temporary permits, then apply through the skilled worker program with this Canadian experience. Juan applied and gained legibility as an international student at a respected MBA program in Ontario due to his previous education and ability to save financial resources to pay the $50,000 tuition fee. He applied for a study permit and Tatiana applied for an open work permit, pathways open to them because of Juan’s legibility within the academic institution as an international master’s student due to his academic experience and ability to pay tuition fees. During this time of preparation, the couple continued to save money to have some financial stability and freedom to explore work options. As Tatiana recounted,

We came up with a lot of savings. Without that money, this one will be very, very hard. Because if you want to keep your same lifestyle that you were having, like having a management position, you really need a good basis because it’s going to be, like, shocking

At the time of the interview, Tatiana and Juan were preparing to submit their application for PR through the skilled worker program. In the following excerpt, Tatiana describes in detail their strategy for getting sufficient “points” to ensure that they would qualify for PR, demonstrating her understanding of the requirements to become legible to the state as ideal economic immigrants, with strong English language skills, Canadian graduate school experience, skilled work experience and significant financial savings.

Tatiana: I told him like, "Okay, you can be the [principal applicant] because you already have the masters. And a masters here in Canada gets more points. You can get more points." So we did it like that. We're having like 590. And limitations right now are with 540 something like that.

Interviewer: Wow. So you can memorise your points.

Tatiana: Yeah. I have studied the whole thing.

Interviewer: So what is your goal? How many points is your goal?

Tatiana: We really want to have like 500, at least 570, just to be sure that they are going to invite us. Okay. I need a little... If I have a six in the IELTS [English language proficiency test], it doesn't matter. We're still on the ground, but we need, well he needs, actually, my husband is going to be the first one. He needs at least 7.5 in each skill in the IELTS
During the first few months in Canada, the couple privately dealt with settlement challenges by relying on their social relationships and resources – e.g., family and their savings. For their first five months in Canada, the couple lived in Tatiana’s sisters’ basement apartment that was provided for free. Juan also developed a supportive student community through his master’s program, though the school did not provide any settlement-related support in getting oriented to Canadian systems or finding housing. The couple faced difficulty finding an apartment because of their temporary status and their low income and were only able to rent an apartment after Tatiana’s sister agreed to co-sign their lease. Their social relationship with a financially secure Canadian citizen allowed them to successfully navigate the borderwork of private landlords, who read their temporary status and lower-income pay-stubs as a risk.

On her open work permit, Tatiana was hired in an entry-level retail position, earning just above minimum wage. She had hoped to apply for a marketing-related position, but the store manager, who did not seem interested in her management experience, told her Tatiana she would need to move her way up the company ladder, which would take several years. Tatiana had recently had an interview with a marketing company but was turned down because of her immigration status.

Then they asked me about my status in Canada. So I told her, "I'm with an open work permit right now, I'm going to apply to the PR," because... They told me they don't want to hire a person just to be a couple of months and then leave. I need to leave and then they need to hire another person.

Tatiana’s experience of downward mobility within the Canadian labour market is a persistent and well-documented problem for many new immigrants but can carry particular significance for those on temporary work permits as lack of “skilled work” experience within Canada, directly threatens the chances of being earning enough “points” and thus being eligible for PR. Regardless of her
education and experience, Tatiana was legible as a racialised precarious worker, but not as someone with management-level expertise.

Tatiana’s employer also shaped her access to publicly funded health care. After working full-time for six months, Tatiana was legally eligible to apply for Ontario’s Provincial Health Insurance (OHIP). When she asked her company for a letter confirming her employment, however, they refused to classify her work as “full-time.” As a result, her application for OHIP was denied. The discretion of her employer (social relationship) to refuse to confirm her full-time status led to a bureaucratic relationship through which she was excluded from a public benefit to which she was legally entitled. The state’s differential inclusion in tying health insurance eligibility to full-time work status for temporary workers – in contrast to permanent residents for whom health insurance is an entitlement sets up employers as gatekeepers to public benefits, creating precarity. Tatiana was unsure what to do since her husband’s student health insurance plan was ending soon. The couple had previously decided to keep their health insurance in the country they lived in previously because of this uncertainty, thus indirectly fulfilling Canada’s neoliberal agenda of recruiting self-sufficient migrants who will not impose any burdens on the welfare state.

While Tatiana’s goal of gaining PR in Canada had not changed, she realised that there is more racism and inequality than she had previously thought:

My perspective was like, "Okay, it's an open world. Everybody's the same. There's a lot of opportunities for immigrants." But the reality is just that I feel that it's not. I don't want to sound tough, but I guess there are kind of racism here, because ... I don't know. I saw in the store how people treat the other ones.

Despite their economic privilege, the couple experienced bordering enacted by both state and non-state actors because of their legal relationship with the state as temporary residents, and for Tatiana as a racialised migrant low-wage worker. Bordering took place within the labour market by prospective employers, within the rental market by private landlords, and through the
administrative processes of the provincial bureaucracies. Each of these instances of bordering introduced potential precarity which the couple had thus far been able to navigate due to the support of key social relationships (most notably Tatiana’s sister) and their significant financial resources. While the outcome of their PR application is unknown, their story illustrates how bordering processes can converge to complicate the “two-step” immigration process, creating precarity even for those who have the resources to be legible as economic immigrants.

7. Conclusion

Drawing from our respective research and other rich analyses of migration pathways, we sought to unpack simplistic understandings of transitions in immigration status in a way that considers the multi-dimensional nature of the process of negotiating one’s place in a given country. This includes the work of producing and reproducing legibility as a person with a given status, as well as the everyday negotiations with state representatives and their respective bureaucracies and within informal and professional networks. These negotiations form an often-invisible component of this process. These invisible negotiations can be sites of bureaucratic violence, as well as sites of productive labour as people learn, strategize, and negotiate these various relationships. The conceptual framework developed in this paper can assist in theorizing and drawing attention to the potential violence, often done in spaces where there is limited accountability, of these processes.

This framework builds on, among others, Landolt and Goldring’s theorizing on non-citizenship as an assemblage (2015). Furthering this work, we ask what processes produce and reproduce particular assemblages of immigration status and trajectories for some but not for others? How is it that these trajectories appear both patterned and unpredictable? Within this article, we suggest that the underlying logic of these processes is the everyday practice of bordering
(Yuval-Davis et al, 2018). Borders are theorised not only as territorial demarcations but as practices infused into the everyday, enacted by both the state and society at large (Moffette and Vadasaria, 2016). Drawing on theories of nation-state/colonial governmentality (Flores, 2019), we consider how the mechanisms of bordering render migrants legible or not to the state. This border work plays out in people’s legal, bureaucratic, and social relationships in often invisible or unpredictable ways. We understand these practices as relational. A person’s legibility can affect their family and their community across multiple relationships and institutional settings. We also understand these practices as imbedded within a complex relational system of settler colonialism – that is, migrant legibility and belonging must be understood in relation to societal narratives and discourses, and the institutions that uphold them.

Understanding legibility through the lens of bordering also highlights the nuances of this practice of governance. Via legibility, the state draws borders around those who it has an interest in protecting from the ravages of capitalism by giving access to resources and services of the welfare state. There is a benefit to legibility, depending on one’s positionality. Migrants around the world push for legibility – to be recognised by the states they live in as people with rights who can access basic resources and services. Illegibility also allows for populations to be erased from government consciousness and their problems from government responsibility. Migrant legibility need not be problematised; however, as a bordering practice it can become a tool of exclusion and violence. Furthermore, the process of making migrants legible as citizens does not erase borders but may in fact re-enforce them. By suggesting that migrants can become citizens, this kind of formal membership becomes a tool leveraged to get migrants to buy into the national project while severing them from Indigenous populations for whom the national project, and the border work inherent in it, has meant violence (Thobani, 2007).
In the case studies outlined above, we see that what appear on the face of it to be straightforward immigration processes of establishing legibility are shaped in particular ways depending on bureaucratic and social relationships and the different ways dominant discourses are being acted upon. While Tatiana attempts to make herself legible as a skilled worker, as a racialised woman with temporary status, her employer reads her as a liability or complicated hire. Carmen’s attempts at legibility as a refugee and then as a family member, instead rendering her legible as deportable. The complexities of these migration trajectories and the violence they produce are hidden by narratives of a welcoming, fair immigration system. This framework invites more attention to the role of status as an overarching structure within people’s lives and the nuanced and complex realities of transitioning between statuses.

We see wide-ranging potential for the application of this framework; however, we also wish to note some limitations. Our framework is grounded in the Canadian context, which presents unique dynamics leading to the prevalence of bureaucratic relationships that may not always translate to other national contexts. In Canada, the state plays a large role in determining who can enter the space, such that few people enter with zero legibility, and a federal system which adds additional legal and bureaucratic layers and complexity. Furthermore, while we use broad categories to highlight three key types of relationships, each of these could be further segregated to speak to the variety of relationships within each of these categories. Depending on the institutional context, actors such as lawyers, social workers, and health practitioners and the processes they engage in, may be characterised as differently. As such, we do not hold those described here to be an exhaustive list of relationships and negotiations, but a jumping off point for understanding the ways in which the assemblage of immigration status is produced, maintained, and transformed.
This framework provides a basic conceptual structure for thinking through the ways in which the assemblage of immigration status and trajectory is shaped by informal and bureaucratic negotiations that constitute border work. This labour of negotiating relationships, and ultimately the negotiation of rights, both on an individual level, such as illustrated by Carman and Tatiana, or at the collective level as with the wide range of migrant-led organizing present across Canada that insist on recognition of their rights as human beings but also question the legitimacy of the colonial state. We read these practices as reconstituting our ideas of citizenship, and our relationship to each other, and the state.

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