

**SECURITIZING THE CANADIAN FAMILY THROUGH TRANSNATIONAL
REPRODUCTIVE GOVERNMENTALITY AND CITIZENSHIP**

By

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ABSTRACT

Putting top-down and bottom-up understandings of Canadian reproductive bio-politics into dialogue by acknowledging the link that reproductive citizenship forges between familial and national reproduction, I focus on procreative practice of transnational surrogacy as a form of nation building. Methodologically, this involves using intersectional governmentality as a lens for critical policy analysis and a critical discourse analysis of Joseph Tito's social media accounts. Tito is a Canadian parent who used a Kenya-based surrogacy arrangement and had his twin daughters rendered stateless at the end of the process. This approach allows me to make three main arguments. First, I determine that the Government of Canada relies on a decentralized and globalizing regime of government to manage such families, incorporating actors, institutions, technologies, and policies located at various geospatial sites. Second, to secure the nation-state from possible threats, this system of governance can lead to citizenship deprivation for children born through transnational surrogacy. Thirdly, despite the Government of Canada framing the families as a threat and the possible complications that their offspring face, Canadian families whose children were produced transnationally can act as securitized governmental actors. They do so through a negotiation of state regulation and employing bio-political discourses that echo the racialized, gendered, classed, and ableist ideologies initiated during Canada's eugenic beginnings as a settler-colony.

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CHAPTER ONE: INTRODUCTION

[Joseph Tito] is a fool or a con. Immigration is the biggest issue in the world right now. You're going to have a child...not in the country that you live in, and not think about immigration? When you yourself were not even born in Canada? It's absurd [the Canadian government] gave him a pass...Perhaps he should have moved to Kenya and raised [his children] there (Anonymous 2019)

This thesis sociologically analyzes how the Canadian government manages Canadian families formed through transnational surrogacy and how such governance techniques affect the citizenship outcomes of children conceived using this method. I express the nation-state and familial procreation as bound by the dynamics of federal-level reproductive citizenship. Broadly defined, this concept is concerned with how the formal and informal governance of political membership determines why and how someone is included or excluded from a nation (Busby 2013; Carsely 2016; Higgins and Fink 2008). My approach to this project is heavily inspired by the complicated and often horrific stories of parents who use transnational surrogacy. From the past year alone, worldwide news headlines reading “Gay married couple sue after Canadian-born daughter denied U.S. citizenship” (The Associated Press 2019), “Jewish same-sex couple sues State Dept. after infant daughter denied citizenship” (Oster 2019), and “This Canadian man had twins via surrogate in Kenya. Now, he can’t bring them home” (Vomiero 2019) all tell a similar story: intending parents travel abroad and hire a surrogate, only to find out that their child(ren) do not qualify for citizenship and therefore lack the right to accompany their parents back to their country of residence. With their offspring experiencing citizenship deprivation, parents find themselves pursuing alternative means of securing membership for their child(ren) or abandoning the infant(s) in the country of their birth. The consequences for the families of transnational surrogacy, especially the children who more so than their parents are incredibly vulnerable to the hardships associated with statelessness, are a part of a much broader discourse surrounding this procreative practice. Surrogacy raises questions and strong opinions (like the one I cite at the outset

of this thesis) about how this practice alters traditional notions of parentage and the ability to claim a child as one's own; what it means for a woman's reproductive capacities to be monetized; and how gestating for another should be governed, particularly since it intersects with broader issues like immigration and how countries are choosing to adapt to the realities of an interconnected world.

Stories of social parents being unable to bring their children back home captivate my sociological imagination (Mills 1959). This is not just because of the repercussions that the children of transnational surrogacy are facing. Rather, I find them engaging because they pose questions of how personal and political conceptualizations of reproduction can be so incoherent that a government is willing to jeopardize the well-being of a child. Amongst the many perspectives that I could have taken for this project, I feel that situating myself within citizenship studies through a focus on reproductive citizenship is of utmost importance. Citizenship studies investigates the relationship between individuals, the law, the state, and the nature of social, political, and cultural identities, and the ways in which they are shaped by national belonging. In the Canadian context, these factors encompass more commonly known entitlements like access to basic social services such as healthcare and public education. As the presence of stateless children in transnational surrogacy arrangements and the denial of reunification for the families formed through such arrangements reminds, citizenship entitlements also encompass less obvious privileges like legal migration, both out of and into Canadian territory. In each of these instances, what a citizenship studies perspective illuminates is the exclusion and disruption of family life that transnational Canadian families formed through transnational surrogacy experience in Canadian society due to their procreative choices.

CONCEPTUALIZING TRANSNATIONAL REPRODUCTIVE GOVERNMENTALITY

I have designed this thesis to move from a broader conceptual debate of how the Canadian state's transnational governance of Canadian families works as a matter of reproductive citizenship towards a detailed discussion of how such governance techniques interact with the reproductive subjectivities of Canadian families. I begin in *Chapter Two: Understanding Canadian Reproduction in a Neoliberal Political Economy*. I use this section as an introduction to intersectional governmentality as my selected theoretical framework, as well as a review of scholarship that explores the epistemology of the Canadian state, the Canadian family, citizenship, as well as the relationship between these three phenomena. Intersectional governmentality combines feminist and Foucauldian principles, proposing that the governance of a nation's population privileges and oppresses members based on their ability to abide by the processes that those with political sovereignty rely upon to justify their domination (Bomert 2015; Crenshaw 2010; Marquardt and Schreiber 2015). Throughout my own work, this translates into the Canadian state using legislation, actors, and technologies related to citizenship to prioritize the procreative choices of certain citizens over others to maintain its hegemony as a neo-settler-colony.¹

Throughout my second chapter, applying intersectional governmentality to the management of Canadian procreation through reproductive citizenship allows me to determine that the Canadian state's current idealization of family is perpetuated by neo-eugenic, neo-settler-colonial, neo-conservative, multicultural, neoliberal, and capitalist ideology. In combination, these principles allow the Canadian family to be mutually constituted along lines of race, intersecting

¹ In a sociological analysis, "hegemony" is often affiliated with the Gramscian Marxist legacy of historical materialism, in which, hegemony refers to the universalization of ruling class interests in Western capitalist societies. Beyond the Marxist tradition, hegemony is applied as a principle applied to legitimate social hierarchy (Oxford Dictionary of Sociology 2009). Throughout my own work, I focus on the Canadian state as one of the primary actors responsible for organizing Canadian society and maintaining the interests of those with political authority.

with ethnicity, Indigeneity, and immigrant status; gender and sexuality; disability; and class. Based on these factors, the Canadian family is one that from the state's perspective should be racially and culturally white as well as heteronormative, allowing families to abide by the geo-political and biological assumptions underlying Canadian citizenship. Also at issue is an infant's embodiment of 'Canadianness' through birth in the national territory and having the genetic material of its parents. Finally, the state expects families to be non-disabled or mildly disabled and of a relatively high class position, ensuring that Canadian families have the socio-economic self-sufficiency to not burden Canada's health and social services more than the average Canadian (Carsely 2016; Gaucher 2018; Harder 2015; Higgins and Fink 2008; Hill Collins 1993; McLaren 1990).

In Canada, increased migration has rendered society increasingly multicultural and multi-racial, challenging the boundaries of Canadian citizenship through movement of citizens and non-citizens into and out of the nation's boundary. In this, I determine that the Canadian state relies on a globalizing regime of government to manage transnational Canadian families. The notion of a globalizing regime of government is adapted from Kim Rygiel (2008:211). She uses this term to refer to a state's practice of using the legislative frameworks related to citizenship as a method for population management in a globalized world, where increasing relations between state representatives, international organizations, and the bilateral and multilateral arrangements of policies allow for political activity to occur within, between, and across borders. Governmental actors implement and rely on such a system to secure the nation-state against risks that emerge when Canadians and non-Canadians separate themselves from the national territory associated with their citizenship and attempt to re-enter Canada. I postulate that with regards to the family, eugenics' emphasis on biology plays an increasingly important role in determining which Canadians families are deemed legitimate by the state and which are to be constructed as a 'risk'

to the institutions and policies set in place to perpetuate Canada as a neo-settler-colony. I highlight the Canadian government's use of genetic testing as a means of "strengthening" family reunification under the *Citizenship Act* and the *Immigration and Refugee Protection Plan* as a deceitful method of ensuring that the state's racist, sexist, ableist, and classist bio-political preferences for kin relations are met.

As Canadian reproductive citizenship is co-constituted by *jus sanguinis* (the law of blood) and *jus soli* (law of the soil), geo-politics do continue to affect current strategies for governing Canadian families. Towards the end of the second chapter, I focus on section 3(3) of the *Citizenship Act*. This portion of the *Act* creates an exception whereby any children who are the second generation of Canadians born abroad will no longer be eligible for citizenship by descent (Government of Canada 2019^a). Paragraph 3(3) is an exception to section 3(1)(b), which states that Canadians' children are eligible for citizenship by descent, even when born beyond Canadian borders (*ibid*). Within the framework of intersectional governmentality, I articulate the second-generation exclusion as an incredibly powerful tool for creating a citizenship hierarchy in which Canadian citizens who are born and give birth on Canadian soil are situated as more reproductively desirable than citizens who are born and procreate abroad.

The preference of the contemporary Canadian state is tied to Canada's eugenic legacy as a white settler-colony. Focusing on Canada's nation-building endeavours of the 1800s, I trace top-down notions of family back to practices like the genocidal-assimilation of Indigenous populations or the barring of racialized immigrant populations through the Chinese Head Tax or Chinese Exclusion Act (Pegoraro 2014:161-162; Stasiulis and Jhappon 1995:112). Doing so allowed for the establishment and reproduction of familial procreation as a white, middle to upper class²,

² In a discussion of class in Canada, there is an important distinction to be drawn between the more institutionalized notion of class I describe in the previous sentence and the realities of how class manifested

patriarchal institution. As a racist and ableist bio-political project, eugenics allowed the Canadian state, along with Canada's religious, educational, and medical community to explicitly eliminate undesirable classes of citizens by manipulating their biological functions (McLaren 1990). Although enforcing such explicitly discriminatory practices became increasingly impossible during the twentieth century due to the expanding role of immigration as a form of nation-building and by extension the development of a racially heterogeneous society, the principles informing state notions of the Canadian family continued.

A GLOBALIZING REGIME OF GOVERNMENT FOR TRANSNATIONAL SURROGACY

Chapter 3: Transnational Surrogacy and Globalizing Regimes of Government extends the argument introduced in my second chapter. However, Chapter 3 is distinguished by an increased focus on understanding the complexities of transnational surrogacy as a procreative practice and how it is managed, not only by Canadian state officials, but also by the multiplicity of actors involved in this process. I employ critical policy analysis as a methodology for discerning the various policies, actors, and technologies that contribute to the controlling of transnational Canadian families as well as the transnational surrogacy market at large. Critical policy analysis is a variation of critical discourse analysis. Within sociology, critical discourse analysis attempts to understand “‘discourse’ as a way of speaking that does not simply reflect the social world, [but also] reproduces it” (Hjlem 2013:873). For sociologists who critically engage with discourse, such

amongst the Canadian population. There is no monolithic class experience in Canada, with the rural-urban divide, gender and race contributing to socio-economic difference (Phillips in Clement and Miles 1989:85-86). In fact, historical class experiences in Canada is remarkably fragmented. The

...working class (waged workers) in Canada became a majority of the labour force only as late as the Second World War. [...] Second, the French-English division of the main industrial region of the country split organized labour into two distinct religious-linguistic groups, a split that remains, though no longer based on institutional religion. Third, the development of a capitalist labour market in Canada was marked by a series of ethnic migrations that undermined any sense of cultural or class homogeneity. Fourth, regional disparities in income, employment, and economic structure have promoted a regional consciousness... (*ibid*: 93-94)

analysis includes understanding language's ideological function (Keller 2005). As an offshoot of critical discourse analysis, then, critical policy analysis allows for policy, the application of said policy, any outcomes produced, and any commentary made in relation to the policy to be analyzed in relation to how power manifests. In Canadian society, both governmental and non-governmental actors are responsible for developing policy. Yet, since in the context of my own research I am interested in how the state manages Canadian families, critical policy analysis is an important means of determining how the policy related to citizenship in transnational surrogacy allows political leaders to sustain concentrated power. At the end of my third section, this method allows me to determine that policy allows for hegemonic processes that legitimate Canada as a neo-settler-colony to be sustained and that the use of citizenship as a globalizing regime of government affects intending parents, surrogates, and children alike, creating a global chain of reproductive oppression.

This process begins in Canada with the discursive and applied elements of the *Citizenship Act* and the *Assisted Human Reproduction Act*, whereby intending parents are ostracized from nationally based surrogacy arrangements. These parents are excluded from using surrogacy, as well as assisted reproductive technologies more broadly, on many intersecting facets of their identity. As research by Epstein's (2017) furthers, application of the *Assisted Human Reproduction Act* occurs in a way that institutionalizes practices which reinforce the normative notions of familial procreation that sustain settler-colonialism. Forced to fulfill their reproductive desires abroad, this regime extends to include fertility/surrogacy clinics and their employees; assisted reproductive technologies; a surrogate; in some instances, donors of reproductive material; the laws pertaining to citizenship and reproductive biotechnologies in the countries of the birth mother and donor(s); lawyers; Canadian High Commission or consular officials as well as the travel visa

and passports that they are supposed to provide Canadian families; and finally, Canada's *Immigration and Refugee Protection Plan*. Once engaged in transnational surrogacy arrangements, commissioning parents exercise a form of reproductive violence against surrogates by exploiting the procreative capacities of birth mothers, rendering their bodies as objects, vacant of their personal reproductive desires (Cooper 2008; Hennessy 2000; Pande 2011; Vora 2015). Within a global political economy, despite experiencing exclusion within Canadian society, intending parents can hire birth mothers as disposable labour due to the networks left behind by colonial conquests which rendered certain countries and populations exploitable. This is often the case among citizens from the global North hiring birth mothers in global South countries like Kenya or Mexico. This is not merely a global North-global South issue, as transnational surrogacy markets rely on the employment of racialized and gendered bodies that have been deemed unnecessary for the betterment of their own nation (Cooper 2008; Vora 2015; Pande 2011).

THE ACTIVE ROLE OF CANADIAN PARENTS IN REPRODUCING AND NEGOTIATING THEIR FAMILY'S RISK

In *Chapter 4: Understanding Reproductive Subjectivities Using Joseph Tito's Transnational Surrogacy Experience*, I meaningfully build on a state-centric understanding of the formation and treatment of Canadian families formed through transnational surrogacy by using critical discourse analysis to understand the reproductive subjectivities of Joseph Tito. The information I use for this investigation is from Tito's social media accounts and supplemented by news coverage of his surrogacy journey. As a Canadian social media influencer and entrepreneur, Tito used his social media platforms to document his decision to use a Kenyan-based surrogacy agreement. These mediums include a blog, *thedaddiaries.com*, with video and written content; a YouTube channel, with lifestyle and surrogacy content; a Twitter feed; an Instagram account; and

a Facebook page.

Although the Canadian state has clear preferences for which Canadian families are to be systematically deemed "legitimate", Canadian parents' ability to uphold such preferences is complicated by a number of factors. Importantly, these include social parents' socio-economic position. Many parents of transnational surrogacy, including Tito, experience a degree of economic success in their country of origin. Yet, once ostracized from procreating in the country associated with their citizenship, their reproductive mobility may become restricted to countries where surrogacy is less expensive (Petersen 2018:699). As I describe above, these countries are often in the global South, where racialized and gendered persons are made available to the clients of transnational surrogacy. The cross-racial nature of transnational surrogacy creates complicated opportunities for parents to produce children who are biologically similar, though such possibilities do not necessarily abide by state expectations of family. In Tito's surrogacy journey, this manifests as Tito travelling to Kenya, hiring a Kenyan surrogate but opting to use an Indian woman as an ovum donor so that his offspring would have the Middle Eastern traits of his ex-partner, and more broadly, traits of the places where Tito spent a portion of his adult life (Tito 2018). As a multinational clinic, the fertility organization partakes in the neoliberalization of identity, including race, using the bodies made disposable by neo-settler-colonial practices to provide clients with the children they desire in the pursuit of profit (Harrison 2012:256).

Despite the ability of Canadian parents like Tito to conceptualize and produce children that meet their own desires, and such desires having the potential to be deemed as a risk by the Canadian state, my research finds that Canadian parents actively reinforce their own and their children's status as Canadians. This is especially true when speaking to the global North-global South divide. Canadians as members of the global North have more robust citizenship (Macklin

2006) practices like birthright citizenship, which can be assumed as the default option for citizenship when Canadians find themselves procreating in global South countries, where their belonging or that of their children is brought into question. For Tito, this is exhibited in a conversation with a Kenyan nurse, who after questioning whether the Tito twins would stay in Kenya or return to Canada asserted that "'...I'm from Canada, what do you think? [...] Obviously, I'm planning on taking the kids back to Canada" (Tito 2018). The unfortunate challenge of Canadian parents' use of transnational surrogacy is that, ultimately, it is the state who enforces the current globalizing regime of government and is therefore able to buttress its hegemony as a neo-settler-colony. In doing so, the state creates citizenship precarity for children born through transnational surrogacy. Aligning with Canadian notions of reproductive citizenship, this reflects the systemic and intersecting relations of power that serve national interests, particularly through the relationship between biological parentage and territory in citizenship law.

DRAWING CONCLUSIONS AND MOVING FORWARD

In the conclusion, I summarize the main arguments of my thesis. I also engage in a discussion of possible strategies for addressing some of the citizenship and exploitation issues associated with Canadian parents' use of transnational surrogacy, specifically presenting three strategies. The first is changing the nature of surrogacy in Canada, focusing on enforcing a more altruistic version of Canadian surrogacy as a means of allowing social parents to experience genuine reproductive autonomy. This includes ending the global chain of reproductive oppression that is currently occurring because of Canadians being excluded from procreating within their own country. Second, I propose that a significant paradigm shift in the way family is understood and valued in Canadian society is needed, with emphasis placed on de-reifying the social aspects of identity from biology. Finally, I call for two changes to Canadian citizenship and immigration

policy. The first alteration would be to ensure that citizenship policy abides by the social notions of kin relations that are enforced in family law, as is the expectation laid out in Canadian policy. Additionally, I suggest that it may be fruitful for the Canadian government to adopt a pre-approval process that would ensure that all Canadian parents who use transnational surrogacy would be guaranteed that their child(ren) receive a citizenship status that is equivalent to their own.

With regards to directions for future research, I outline four potential areas. Transnational surrogacy is an ever-changing, precarious, and secretive practice. As such, there is always a need for more research to be done in this area, closely examining the experience of intending parents and children. Second, I highlight the need for further exploration of cross-provincial differences in the governance of the transnational Canadian family. Third, the fourth chapter of my thesis highlights the multiplicity of roles that the actors of transnational surrogacy take on. As such, it would be valuable to further explore the dynamics of how each actor balances the various responsibilities that accompany each position. To conclude, I suggest that for those interested in citizenship studies it may be interesting to interrogate how Canadians of various citizenship statuses (i.e. Canadian-born citizen versus permanent resident) experience the reproduction of their families, as managed by the state.

LIMITATIONS OF THIS STUDY

Before continuing into the body of my thesis, I will address the limitations of my decision to apply critical discourse analysis to social media sites. The first problem pertains to how social media complicates researchers' ability to engage with discourse as it is traditionally understood. The second challenge presented by this methodology is a concern about whether discourse analysis adequately captures the subjectivities of Canadian parents. Speaking to the first point, social media, as an extension of the proliferation of the internet, provides an alternative space for

presenting and engaging with language. Such expansion includes the incorporation of social media into systems of governance, with actors at all levels of society engaging with dominant social and political narratives. In doing so, individuals challenge or strengthen political hegemony (Bouvier and Machin 2018). As a key feature of the Foucauldian tradition, this discursive focus requires an understanding of how individual and group actions also contest or incorporate the ideology underlying bio-political systems of sovereignty (McKee 2009).

Despite creating new spaces and incorporating the perspective of additional actors, social media raises concerns about the legitimacy of information as well as a researcher's ability to interpret presented narratives. Speaking to the former, methodologists concerned with technology-based evidence propose that the commodification of online content may influence creators to falsify information in the pursuit of profit (Krzyzanowski 2016). Examples of this tendency include the fabrication of an experience or the omission of details that raise legal concerns and therefore could lead to the demonetization of content (*ibid*). In the instance of Tito's accounts conveyed in his blog, this is a valid concern as many of his posts or platforms contain advertisements or endorsements. Attempting to negotiate these complexities, researchers find themselves in a constant process of meaning making, attempting to understand and mediate the various factors influencing how people understand and portray their experiences as well as the influences determining how researchers interpret information (Flyvbjerg 2001). According to Michal Krzyzanowski (2016:310-311), there are two methods available to researchers who must negotiate these layers of interpretation, the first being verification of information presented on social media. Second is re-contextualizing discourse within the relevant social, political, and economic conditions affecting the agency of social actors. Within my own work, the initial option is problematized by the unwillingness of key stakeholders associated with the transnational

surrogacy process to speak to me. Without a source for verification, I am left to follow with the second recommendation of re-situating discourse within the relevant context. This context is provided by drawing on relevant media coverage of Tito's experience, analyzing the most current versions of policy that pertain to Canadians' use of transnational surrogacy, and finally on a much broader scale, researching the social, political, and economic forces that shape the various sites associated with Tito's surrogacy journey.

Admittedly, there are major limitations associated with my decision to use Tito's social media accounts as a method of capturing the reproductive subjectivities of Canadians. As the only case study in my research, Tito's journey does not capture the complexities that would have been made available through gathering and analyzing the experiences of a larger sample of Canadians who chose to have children through transnational surrogacy. My decision to use Tito's social media accounts is informed by the struggles with methodology I experienced over the course of the research process and the dead end I experienced after repeated efforts to interview intending parents. Despite my interest in using interviews to understand how the Canadian state engages with families formed through transnational surrogacy, by Spring 2019 my attempt to interview parents, lawyers, consultants, or policy makers resulted in non-responses, rejection of my requests, or agreements that inevitably fell through. These struggles, while leaving me with minimal access to primary information, speak to the incredibly contentious nature of travelling abroad to have a woman gestate child(ren) and the stigma attached to having children through transnational surrogacy. Tito's strong social media presence and willingness to detail his experience makes his case an incredibly rich source of information in a field that is overwhelmingly secretive. My hope is that my analysis of this case illuminates some of the challenges faced by intending parents and their offspring born abroad through surrogacy and becomes a foundational source of knowledge

for future research.

CHAPTER 2: UNDERSTANDING CANADIAN REPRODUCTION IN A NEOLIBERAL POLITICAL ECONOMY

This chapter focuses on explaining intersectional governmentality as the theoretical and analytical framework for my thesis. Here, I apply this theory to the relationship between familial and national reproduction in Canada, as is made possible by reproductive citizenship. In doing so, I articulate the social and political factors underpinning the Canadian state's governance of familial procreation within a global neoliberal political economy. I first provide an overview of Foucault's notions of governmentality, concentrating on the aspects of his work that are most relevant to my analysis. This includes the decentralization of state power through bio-political processes, the creation of a decentralized apparatus of security, as well as the perceived shift to increased agency among members of a population and the implications this has on the maintenance of political authority through governance.

Following this, I apply Foucauldian understandings of governmentality to familial procreation and national reproduction, citizenship, as well as the relationship between these concepts. This provides a foundation for how these concepts are defined in the context of my research and for presenting the reader with why I opted for intersectional governmentality over purely Foucauldian notions of governmentality. Focusing on what I regard as the three major limitations of Foucault's work, I present the following three issues existing within the concept of governmentality: first, is the issue of whether the articulation of power is homogenized. Second is how Foucault's emphasis on bodies and biology assists in the reification of social inequalities and the ideology used to perpetuate such disparities through the process of embodiment; and third, Foucault understands a population as being contained within a nation-state. In other words, his work can be critiqued for its nation-based or nationalist methodology, reproducing the ontology of

the nation-state. By engaging with these limitations of Foucault's works, I introduce intersectionality as a way forward. Employing theorizing from intersectional governmentality theorists Christine Bomert (2015) and Nadine Marquardt and Verna Schreiber (2015), I interrogate the normative and de-politicizing assumptions made about the bio-political governance of Canadian parents who use transnational surrogacy. This necessitates understanding the process of transnational reproduction in terms of intersections of power that highlight North-South relations, articulated in my work as relations of race, gender, class, disability and sexuality.

Applying intersectional governmentality as an analytical framework throughout the remainder of this chapter allows me to determine that the Canadian state's governance of the Canadian family relies on perpetuating eugenics-inspired versions of neo-conservatism and heteronormativity, multiculturalism, and neoliberalism as political ideologies. Reflecting Canada's beginnings as a white settler-colony, these ideologies assist in the Canadian state classifying the family along racialized, ethnicized, classed, disabled, and gendered lines. From a top-down perspective, then, these socio-political ideologies frame the hegemonic Canadian family as racially and culturally white, middle to upper class, non-disabled, and capable of heterosexual reproduction; a preference that continues to exist even as non-normative family structures and innovative forms of family formation emerge and come to be legally-protected. The maintenance of idealized forms of family occurs through institutionalizing the actors and processes related to procreation. This includes, but is not limited, to institutionalizing family, marriage, and citizenship. As state-legislated organizations, the Canadian state sustains its ability to reinforce its hegemony by selecting which transnational Canadian families are encouraged or discouraged to reproduce the nation, with the state legitimating desirable citizens through neo-eugenic bio-political strategies; strategies like the extension or denial of citizenship. In keeping with these ideas, it is

those Canadian families who fail to conform to normative notions of family or who fail to abide by the governmental process associated with forming a family transnationally, that are constructed and substantiated as a threat.

MICHEL FOUCAULT'S GOVERNMENTALITY

From 1970 to 1984, during his time at the Collège de France, Michel Foucault created and elaborated upon the notion of governmentality. Governmentality is often associated with Foucault's lecture *Security, Territory, and Population*, with neo-Foucauldians often capturing the spirit of governmentality using the phrase *conduct of conduct* (Snellart et al. 2008). Foucault gives more context to this term in his lecture *The Birth of Biopolitics* by focusing on the transition to neoliberalism that began in the eighteenth century with the rise of liberalism. Liberalism would eventually transform into neoliberalism and come to dominate in the current political economy (Snellart et al. 2010). A political economic perspective seeks to understand the relationship between politics and the economy as well as the influence this relationship has on socio-cultural aspects of the social world (Clement and Williams 1989:6). In the sociological tradition, emphasis is often given to politics in determining the social and cultural domains (*ibid*:6-7). My discussions of Foucault's work, then, attempts to discern the characteristics of a neoliberal political economy, the historical conditions under which it arose by accounting for the relationship between market and state, and how it affects the lives of citizens. As per the transition that Foucault discusses, neoliberalism

...is a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights and to guarantee, by force if need be, the proper functioning of markets. [...] Insofar as neoliberalism values market exchange as an 'ethic in itself, capable of acting as a guide to all human action, and substituting for all previously held ethical beliefs', it emphasizes the significance of contractual relations in the [global] marketplace. (Harvey 2005:2-3)

Although I am frequently engaging with neoliberalism's principles and practices, I opt for phrasing like "a neoliberal political economy" over the more common "neoliberalism" to signify that there is no one ideology or set of practices that define the world in which Canadian families act. Wendy Brown (2006), for example, provides an astute account of the re-emergence of neo-conservatism alongside the rise of neoliberalism. For Brown, attempting to orient society towards neo-conservatism is a solution for re-injecting moral values into society as neoliberalism's emphasis on the commodification and market exchange makes life devoid of notions of 'proper' conduct (2006:699).

Governmentality is concerned with the rationality underlying the bio-political governance of a population's actions insofar as it occurs within a Westernized country (*ibid*). In Westernized nations, like Canada, neoliberal governmentality takes on three major characteristics. The first is the decentralization of the state and its sovereign power, leading to the production of new governance techniques which ensure that the political will and desires of a state are met (*ibid*). In this model, the processes associated with such practices no longer rely on "...the state as a necessary or logical centre..." (Larner and Walters 2004:3). Rather, decentralization weaves state power into societal institutions and actors, as well as the tools and policies associated with them. These institutions include the family. For Foucault, this transition is symptomatic of the nature of states, which although founded on a set of ideological frameworks and engagement practices, are in continuous evolution. The need for the Westernized state to constantly re-invent itself is, in part, driven by individual and collective agency. This is to say that although political sovereignty embeds societal actors within a structure for political domination, civilians' desire for social, political, and economic change can radically influence the nature of society and how a state is able to govern over a group (Snellart et al. 2008). Foucault does postulate, however, that the state never

experiences a total transformation, with previous dimensions of political power being incorporated into new philosophies of, and strategies for, population management (*ibid*). This means that within the current political economy, the Canadian state and its associated apparatus will experience neoliberalization, though this is not the only factor influencing political domination. As a result, a rigorous understanding of current governmentality requires a historical analysis of the Canadian state.

There are two major considerations arising from the continuous evolution of the Westernized state: that regardless of the form that the state takes, subjects must remain bound legally and ideologically bound and that strategies for protecting state interests must also shift. With regards to the former, citizenship as a formal political status serves as an effective means of maintaining a national collective. Once designated as citizens, peoples' bodies and biological features, including familial reproduction, serve as a means of generating power through the incorporation of such features into the political and economic sphere: the broader social relationship between biology and strategies for power leads Foucault to the term *bio-power* (*ibid*). As an extension, all official political strategies for bio-power are known as bio-politics. I find the emphasis given to bodies and biology in Foucault's work to be particularly impactful, as this means that subjects come to embody a state's bio-political strategies (*ibid*). Procreation within the family is an apt example of bio-political strategy, wherein families act as a micro-network of citizens. In harnessing members' reproductive capabilities, the state can produce new members of the nation, increasing the number of actors available to be exploited.

Regarding the second complication that arises in a neoliberal political economy, Foucault suggests that the need to enforce political sovereignty results in the creation of the apparatus of security. As a state apparatus, security takes on similar characteristics to the state. First, the

apparatus of security decentralizes a state's repressive authority, with components of the social sphere becoming embedded into the structure. Once again, the embodiment process occurs, whereby members of the population become "...subjects of security..." (Larner and Walters 2004:79). Finally, although a state's repressive authority in a neoliberal political economy deviates from a formal set of laws and punitive punishment, this is a partial change. This shift is attributable to two factors. As is already mentioned, states must be reinvented over the course of history. Moreover, although states in a neoliberal political economy use bio-political strategies to achieve a desired set of outcomes, there is no one means of obtaining such goals (Snellart et al. 2010). Rather, a state creates and circulates knowledge to naturalize its desired outcomes as moral obligations for citizens. In turn, members of a nation are left to work towards those objectives within the economic sphere with relatively high levels of agency (Harvey 2005; Larner and Walters 2004). Because of the concurrent production of knowledge and power, governmental actors provide citizens with the responsibility of determining when their own wants and choices stray too far from state desires. In a political economy that emphasizes the agency of social actors, incorporating such groups and individuals into strategies for bio-power and the apparatus of security appears paradoxical: the autonomy provided to individuals should allow them to act within their own self-interest. However, this is a purposeful illusion, with states creating the façade of a depoliticized society. By crafting this image, moments when a state takes disciplinary measures appear as an exceptional reaction to instances where the nation is under threat (Snellart et al. 2008). Aligning with constructivist epistemologies, threats are real insofar that states can 'protect' society by reacting to them. However, threats can only be realized through the process of a state designating an individual, group, or action that society can be defended against (*ibid*). With Foucault's theories of governmentality concentrating on what happens within the nation, the state

constructs threats based on that which exists outside and inside the nation's borders. Looking beyond the nation-state, the citizens and the states of other countries function autonomously, jeopardizing the bio-political strategies of a Westernized nation. Similarly, those citizens and non-citizens contained within a country's borders are a risk to a state's power. For this group, actions potentially deviate from desired outcomes. Yet, it is only in the instances where citizens fail to fulfill their role as a securitized bio-political subject that a state should react to the risk that such persons pose (*ibid*).

Recounting the details of Foucault's original understanding of governmentality in the neoliberal political economy provides a foundation for how I understand family, citizenship, reproduction, as well as the relationship between these concepts. As a transversal consideration, Foucault's scholarship opposes the notion of a depoliticized society, which governance in a neoliberal political economy relies on for generating power. He does so by highlighting the active role that the state continues to play in determining a nation's structure, using institutions and actors as tools of governmentality; a point worth reiterating because scholars of governmentality are frequently criticized for being state-centric, failing to account for government as "...ubiquitous in all social relationships, even in the most mundane activities at the finest minutia" (McKee 2009:469). For the critics of state-focused governmentality, a more nuanced understanding of topics would be accomplished by taking an account of the actors, institutions, technologies, and policies that are embedded into, and ultimately become, a part of systems of governance. Regardless of how distributed political governance becomes throughout the lives of citizens, I contend that the state remains central to the policies related to biological and social reproduction of the nation. As I outline throughout the latter parts of this chapter, these policies include marriage, citizenship, immigration, and multiculturalism. Suggesting otherwise is to risk

recirculating a neoliberal narrative of autonomy from state influence. Therefore, the state should *always* be featured in the work of those interested in other apparatuses of governmentality (McKee 2009).

The re-politicization of society allows for an interrogation of the state-facilitated assumptions underlying family in Canada. The Government of Canada's investment in the family is clearest in the incorporation of the matters of kinship into state policies and institutions, furthering the family's ability to function as a micro-level institution. Serving as a form of reproductive citizenship, the governance of procreation in citizenship laws affects who and on what grounds children will be considered members of the Canadian nation (Busby 2013; Carsley 2016; Collin 2014). Critical historical perspectives reveal that the Westernized state has always had a vested interest in applying the principle of *jus soli* (law of the soil), conferring citizenship to the children born within a nation's borders. This is especially true if infants' parents were already members of the population (Higgins and Fink 2008:378). As a geo-political project, *jus soli* is often referenced in relation to birthright citizenship, allowing procreation to serve as a form of nation-building (Shachar 2009). In this model, children reproduce the state through the political, social, and economic attachment to the nation that they will have over the course of their life.

The Canadian state also governs and legitimates biological reproduction within the family through the institution of marriage. Historically, governance of procreative relationships through the institution of marriage relied on manipulating an unregulated biological function, normalizing a conservative-politicized variation of heterosexual biological arrangements (Hill-Collins 1993:63). Previously limited to those who were participating in formal conjugal relationships, some of those partaking in heterosexual procreation within the nation's borders passed citizenship down to their children based on the assumed biological relationship that occurs through parentage

(*ibid*). The principles underlying Canadian citizenship acknowledge this biological relationship through *jus sanguinis* (law of the blood). *Jus sanguinis* also situates the family as a micro-nation, with parents reproducing 'Canadianness' and infants embodying the citizenship status of their guardians (Carsley 2016:527-529).

Law of the blood does allow citizenship to take on biological characteristics, however, the concurrent application of the principles of *jus soli* and *jus sanguinis* in Canadian citizenship laws means that there is an inseparable link forged between physiology and territory. Most recently, this relationship appears in section 3(1)(b) of the Canadian *Citizenship Act*, which specifies for Canadians born outside of Canada after February 14th, 1977, that children are eligible for citizenship by descent so long as one of the baby's parents is a Canadian (Government of Canada 2019^a). Notable restrictions have been put on section 3(1)(b) since this rule's inception. Beginning on April 17th, 2009, Jason Kenny announced that the Government of Canada would limit citizenship by descent under section 3(3) to the first generation born outside of Canada and who are Canadian by blood, pertaining exclusively to Canadians' genetic offspring (*ibid*). According to Citizenship and Immigration Canada, this was intended to "protect the value of Canadian citizenship for the future" (Citizenship and Immigration Canada 2009; Marwah et al. 2013:109). The Harper Conservative government's reform marked a response to dual citizenship and the alleged ability of dual citizens to take advantage of their Canadian citizenship and perform as "citizens of convenience". Such citizens were regarded as "not giving enough in return - whether in the form of taxes or simple allegiance and devotion to Canada" (*bid*). Doing so further enforced

that there is an element of territorial residency that is required for 'Canadianness' to prevail.^{3 4}

The historical specificities of conjugal kin relations reinforce that the rule of family is made possible by linking governmental processes, statuses, and institutions - citizenship and marriage - to procreation. Doing so acts as a gatekeeping method for assuring that citizens' reproductive desires serve the Canadian state's bio-political strategies. From a Foucauldian perspective, then, family is a securitized institution. It should not be forgotten, however, that there is always a tension between Canadians' reproductive desires and the politicized version of family that the Canadian state relies on. This contention necessitates that a distinction be drawn between these two versions of family, with this thesis referring to the former as *family* or *a family* and the latter as *the family*. Although a useful distinction for analysis, these two ideas should not be understood as mutually exclusive, as state interest in family affairs facilitates their co-constitution.

BEYOND FOUCAULT: UNDERSTANDING INTERSECTIONAL GOVERNMENTALITY

There are three concerns that arise from solely applying Foucauldian theories of governmentality to this analysis. The first is that Foucault's perspective homogenizes power distribution amongst all levels of society. Working at the level of population, homogenization occurs through a state standardizing knowledge as well as the tools for transmitting information from a sovereign to all its citizens. Within this model, standardization equalizes the opportunity

³ I also want to highlight that although there is a relevant and well-established relationship between family, biological and national reproduction, and citizenship as an indicator of membership, citizenship operates at the level of the individual. Citizenship as an individualized status is reflected in the fact that members of a family may hold different citizenship statuses. For this reason, in any discussion involving family and citizenship it is easier to analyze the ways in which different citizenship statuses of family members can contribute to citizenship outcomes of children. It is not as easy, or from a policy standpoint often not plausible, to discern the citizenship status of a family.

⁴ In the years leading up to 2009, Lebanese-Canadians bore the brunt of the tension surrounding dual citizenship. This occurred when the Government of Canada was providing repatriation assistance to Canadian citizens caught in the 2006 war in Lebanon. At the time, common sense understandings of the situation of Lebanese-Canadians suggested that this group was benefitting from their Canadian citizenship, often manifesting as dual citizens taking vacations in Canada, while creating high costs for Canadian tax payers (Marwah et al 2013:109; Stasiulis in Ilcan 2013:35-37).

for individuals to learn about and meet state expectations, with acceptable citizens as those who can learn and implement such knowledge during their daily lives (Gordon 2002:131). Education is a commonly cited example of how knowledge is standardized in a neoliberal political economy. Within the public schooling system, the regulation of curriculum, tests, and assignments creates a space where teachers assess students' ability to not just learn and apply formal knowledge, but also students' ability to embody social values (i.e. judgement or initiative), rendering some children and young adults more desirable and valuable to the state than others.

Foucault's tendency towards the homogenization of power and the standardization of knowledge leading to equal opportunity is countered by a vast amount of research demonstrating that inequalities permeate social relationships. Of the many approaches used to address such disparities, intersectionality is one of the social sciences most prominent (Calliste 1996; Dhamoon 2001; Hill Collins 1993; Razack 1998). The term intersectionality is often accredited to critical race and legal scholar Kimberlé Crenshaw (Carbado 2013; Crenshaw 2010). However, this theory's origins are a part of a much longer legacy left behind by Black feminist and critical race scholars working simultaneously in countries such as Britain, Canada, Australia, and the United States.⁵ Defined broadly, intersectionality proposes that in any given context, individuals' and groups' unique experiences of subjugation and privilege are based on a simultaneously occurring system of oppressing relations of power (racism, sexism, ableism, ageism, and so on) (Hill Collins and Bilge 2016). This thesis privileges the understanding of domination as a synchronized system, as the propensity to understand or articulate the dynamics of oppression as independent from one another is one of intersectional theory's most common critiques (Razack 1998; Dhamoon 2001). David McNally further proposes that one of the greatest challenges for intersectional theorists is

⁵ As an example, see Sirma Bilge (2013), Agnes Calliste (1996), and Daiva Stasiulis (1991; 1999) for an investigation in the Canadian context.

demonstrating that subjugation is "...*intrinsically constituted* by its interrelations...", rather than manifesting at the intersection of converging vectors (McNally 2017:270).

For Christine Bomert (2015), as well as Nadine Marquardt and Verna Schreiber (2015), it is the discernment within intersectional theory of the factors contributing to a system of domination that makes it a complementary and necessary addition to Foucauldian understandings of governmentality. This is because it de-universalizes and de-naturalizes notions of power. These authors, putting these two theories into dialogue, term the combination "intersectional governmentality" (Bomert 2015; Marquardt and Schreiber 2015). Doubling as a theory, and more importantly as an analytical tool, this concept follows critical and constructivist epistemological traditions. Concentrating on the practice of political governance, intersectional governmentality proposes that rule over a national population is determined by the system of oppression that a sovereign's subjects conduct themselves in. The state uses its bio-political strategies and tools to benefit and value certain groups and individuals over others to achieve its desired ends (Bomert 2015; Marquardt and Schreiber 2015). Within Canadian society, the idea that individuals and groups are marginalized by the state counters the liberal ideal that once endowed with formal membership, one is granted a degree of economic, social, and legal well-being and security by the state that is comparable to all other members of the population. In Westernized nations, this process is referred to as social citizenship and is theorized to be a part of a broader set of rights and responsibilities that citizens are supposedly bestowed with by the state. T.H. Marshall, writing in the mid-twentieth century, termed the full realization of one's citizenship entitlements social citizenship (Marshall 1950). As my thesis later demonstrates, Marshall's (1950) work did not address every type of citizenship right, including reproductive rights or cultural rights, which are important for Canada's cultural and religious minorities.

Akin to the position of intersectionality, critical scholars refute the notion that social citizenship produces equal opportunity for success in Western society, postulating that certain groups of citizens are disproportionately afforded with economic, civil, and political liberties, with those who do not unequivocally obtain their entitlements known as second-class citizens (Bosniak 2006; Nyers 2009). Bio-political governance is foundational to determining who truly belongs to the nation, and is therefore entitled to their rights, and those who do not. In keeping with Foucault's postulation that states are constructed across time and therefore demand a historical analysis to understand the current form, comprehending the current nature of bio-politics requires tracing back to Canada's beginnings as a settler-colony. Canada's colonization period is marked by the racist, sexist, classist, and ableist logic of eugenics that privileged a conservative form of Canadian nationalism. This ideology led to the organization of Canada as a Eurocentric country, privileging the racial superiority of white people, giving power to Anglo-Celtic culture, featuring a Protestant religious affiliation, and a British imperialist orientation (Abu Laban 2014; Bilge 2013; Sneath 2016).⁶

Once again, I must make two stipulations. It is important to note that since Confederation occurred in 1867 and the original Canadian *Citizenship Act* was not established until 1947, ideas of 'Canadianness' throughout the nation-building process were not clearly tied to a politically independent territory or status. Granted relative independence as a Dominion and settler colonial state, membership to Canada was dependent on practices of the British sovereign. This relationship is exemplified in various pieces of legislation, including the 1867 *British North America Act* (Herzog 2014:449-450). Moreover, the definition of Canadian citizenship produced through settler-colonialism was also shaped by resistance to British understandings of membership. With

⁶ The exception is Quebec, which although perpetuating Canada as a Eurocentric nation, cannot reproduce preference for Anglo-Celtic culture.

colonization beginning in the fifteenth century, French settlers served as an important part of this opposition. Acting simultaneously as a key part of the colonization process, the French settlers' desire for independence from British sovereignty was in opposition to the longing to assimilate this group into British civilization (*ibid*). Because of the struggle over citizenship, while it is of interest to understand how Canada's eugenic settler-colonial history allowed the governance of familial procreation to be situated alongside numerous social and political factors, it is important to clarify that even within the populations commonly associated with colonization, this process does have contextual limitations.

Intersectional Foundations: Canadian Eugenics as a Bio-political Strategy

The colonization practices of the 1800's and 1900's mark a transition to the logics and practices that would inevitably become a part of a neoliberal political economy. This period was profoundly affected by eugenics. Coining the term eugenics, British scientist Francis Galton hypothesized that selective breeding could be used to improve the physical, mental, and moral capacities of humanity (McLaren 1990; Kevles 2016). Within Galton's theories, there are two types of eugenic practices: positive eugenics, which refer to the reproduction of desirable traits, and negative eugenics, which is understood as the discouragement or outright prevention of breeding undesirable traits (Kevles 2016:45). Through these regimes - and this is the second critique of Foucauldian understandings of the neoliberal political economy - the link between biological and national reproduction results in social outcomes being articulated as a result of biology. This leaves the solution to collective issues as addressing individual biological 'deficits' on a mass scale (McLaren 1990).

Throughout the upcoming section, I outline the aspects of identity that eugenics proclaimed plagued Canadian society as race, relating to Indigeneity, ethnicity, and immigrant status;

disability; gender, aligning with sexuality; as well as class. Before I do so, I want to be resoundingly clear: although a variety of bodies are implicated in and affected by eugenics, at its core, the Canadian variation of this state disposition and public sentiment is racist and ableist. And, as I will discuss in this chapter as well as those to come, the centrality of these two features within Canadian eugenics set racialized and disabled features on a close (sometimes overlapping) path of exclusion from Canadian society, as is made possible through the regulation and application of biotechnologies.

As a main preoccupation of Canadian eugenics, the management of race is exemplified in the settlers' treatment of Indigenous families' reproductive decisions. As a form of negative eugenics, Indigenous women were subject to forced sterilization by the medical community (a practice that continues in contemporary Canadian society) and rape by male colonizers (Pearce et al. 2008:3-4). With regards to Indigenous families, this reproductive violence also manifested as members of Christian groups segregating Indigenous children from their parents and communities. By placing these children in residential schools, youth were to be assimilated into Eurocentric cultural practices (Pegoraro 2014:161-162). The horrific realities faced by Indigenous children in residential schools can be summarized, though never reduced to, emotional, physical, and sexual abuse, children being punished for speaking Indigenous languages, and the denial or restriction of adequate nutrition (Albanese 2016). Over generations, forced sterilization and the assimilation of Indigenous communities allowed for Canada to be defined as a settler territory through demographic and cultural genocide.

The racial and ethnic considerations arising from the treatment of Indigenous reproductive capacities suggests a preference for settler families that could racially and culturally procreate whiteness. In the pursuit of this preference, the policies, institutions, and members of the Canadian

medical, religious, and educational communities became sites and tools of governance. In an analysis of the reproduction of the Canadian nation through membership, a discussion of Indigenous communities is powerful, as for an inexcusably long period of Canada's history these groups were denied citizenship, only to be left as wards of the state. On the part of the state, not only were those who could be Othered deprived of membership to the national family, they were also stripped of the possibility of 'contaminating' the larger polity through immoral procreation.

Canadian eugenicists were also preoccupied with the governance of light-skinned individuals' and families' reproductive capacities. Eugenicists' discourse and treatment of this group in Canada relies on governmental techniques which normalized procreation as a middle to upper class, non-disabled, patriarchal and heteronormative activity. As Angus McLaren further argues, "the eugenicists' activism was a sign [and] also fear of lower classes" (1990:18). For those concerned with the nature of the Canadian population, the lower classes were perceived as socially degenerate, as was loosely assessed by the presence of mental health issues like feeble-mindedness, unhygienic living conditions, or low levels of intelligence. These beliefs, coupled with higher rates of reproduction amongst this part of the population, led to a push by agents of eugenics for state regulation of procreation amongst those living in poverty (McLaren 1990:18-19). The class implications of this logic are clear: during the nation building process, procreation was for upper to middle class light skinned families, with the state being pushed to implement negative eugenic practices to limit the reproduction of undesirable traits. More insidiously, the tendency to assess issues like feeble-mindedness during Canada's beginnings as a settler-colony also carries ableist rationalities, wherein the desirable Canadian is a non-disabled citizen or one, who on a spectrum of ability, does not become a responsibility of the state or a hindrance to society's progress (El-Lahib 2016). Much like Canada's Indigenous populations, segregation and

forced sterilization were endorsed by eugenics-oriented organizations like the *National Council of Women*, who advocated for "...race regeneration and moral purity of the nation" (McLaren 1990:37). In this instance, the Canadian medical community once again became involved in the governance of procreation, diagnosing and operating upon the women that eugenicists deemed unfit.

The continuous push to regulate reproduction through violence against women suggests that the historical governance of Canadian families was also sexist, using patriarchal and heteronormative logics to ensure that sexual proclivity amongst men was not jeopardized. These gendered logics were perpetuated in numerous ways. I have already proposed that the institution of marriage plays a critical role in the Canadian state's governance of procreation. Expanding on the ideological dimensions of eugenics governance, Doctor John Godfrey recommended that conjugal relationships could be used to prevent procreation amongst those deemed socially unfit by diagnosing them as incompetent for marriage (*ibid*:42). Godfrey's influence was primarily witnessed in Ontario, where he presented a legislative bill that would ensure that matrimony would remain a racist, classist, and sexist institution, with middle to upper class white women carrying the primary responsibility of developing Canada as a settler-colonial nation through the birth of new citizens (*ibid*). Once again involved in Canada's eugenic beginnings, the *National Council of Women* supported Godfrey's conservative and normative definition of familial procreation, proclaiming that women's place in society should be solely determined by their ability to marry and reproduce the nation in a hegemonic manner (*ibid*).

Leading into and throughout the 1900's, the continued push for cultural determination and self-governance amongst Canada's Indigenous population and increasing migration challenged the desire to preserve a racially and morally pure eugenics project. Prompting the third critique of

Foucault's theories of governmentality, management of the Canadian population in a neoliberal political economy is not contained within the nation-state, with the globalization project accelerating movement into and out of Canada. Eventually, more overt forms of eugenics eventually gave way to multiculturalism as a deceptive form of ethno-nationalism. However, this was a slow and tumultuous transition, during which racial hygiene projects continued to find their ways into state affairs. Immigration policy was a fruitful area for eugenics to flourish. Though really, until the 1960's the Canadian government enforced explicitly racist immigration practices to maintain Canada's whiteness. In this model, immigration policy was designed "...to recruit the 'best classes' of British men and women. Non-European would-be immigrants [were] excluded unless their cheap labour was needed, in which they would be granted lesser access to settlers' and citizens' rights" (Stasiulis and Jhappan 1995: 98). Taking more ableist undertones, these settler-colonial politics' focus on bringing in the "best classes" emphasized that individuals from British societies would embody desirable appearances and behaviours that allowed for the development of a morally and physically superior society (*ibid*: 98-99); qualities that racialized immigrants were viewed as being deficient in. Such biases manifested in many ways including the Chinese Head Tax or the outright ban on the entry of Chinese immigrants from 1924 to 1947; a narrative of Black individuals as being undesirable for settlement in Canada, manifesting as Canada's lack of a "negro problem" because of this race's incompatibility with Canada's severe climate. Even where it concerns light-skinned immigrants, groups like Ukrainians were considered culturally-backwards and therefore incompatible with Anglo-Celtic practices (Stasiulis and Jhappan 1995:112-114).

The Transition to Multiculturalism and the Making of Canada as an Off-white Nation

Inevitably, immigration led to the production of a racially and culturally heterogeneous population, giving way to the immigration policies of 1962 and 1967. It is during these two

iterations of immigration policy that blatant racist and ableist undertones of the past gave way to the current points system. Under the points system, applicants are usually selected based on criteria like educational attainment and knowledge of an official language (Stasiulis and Jhappan 1995: 117). Open to a more demographically diverse nation, the Canadian government had to seriously consider how a racially and culturally heterogeneous nation could be managed and bound together. Furthermore, after 'unifying' Canadians, the state had to decide what the secure governance of the Canadian population would look like, particularly beyond national borders (Larner and Walters 2004). Addressing the two-fold nature of this issue requires an exploration of the nature of bio-political management of the population both within and beyond Canadian borders. As an extension of previous discussions, citizenship continues to serve as a bio-political tool from the 1900's onward. However, there is one crucial shift that affects how citizenship is conceptualized by the Canadian state: 1947 marks the passing of Canada's first citizenship policy. This means that finally a discussion of bio-political governance over the Canadian population by those with political authority took on juridical qualities. As such, issues of Canadian state authority function autonomously, rather than governance through citizenship being intimately attached to British sovereignty and the rights and privileges accorded 'British subjects'. Attempting to cope with the diversification of citizens, the Canadian state implemented the original *Multiculturalism Act* in 1971, allowing for citizenship to become associated with multicultural ideology. Addressing the implementation of the *Act*, the Government of Canada made the following statement:

... [multiculturalism is] the most suitable means of assuring cultural freedom of all Canadians. [...] The Government will support and encourage the various cultural and ethnic groups that give structure and vitality to [Canadian] society. They will be encouraged to share their rich cultural expressions and values with other Canadians and so contribute to a richer life for all. (1971)

Moving away from traditionally conservative modes of population management, top-down notions

of multiculturalism allegedly attempted to preserve the cultural diversity of Canadian society in a way that formally acknowledged the cultural contributions of those who were previously excluded and Othered within Canadian immigration policy. However, this manifested unevenly, continuing to advantage the groups and individuals that were assumed to more closely align with settler-colonial culture. The Government of Canada laid the foundation for this advantage when they situated "a policy of multiculturalism with[in] a bilingual framework...." (Berry 2013:665). In doing so, cultures were positioned within a structure that gave preference to settler-colonial beliefs and practices; a system that allows for the national family to be reproduced by identifying who or what does not truly belong by forcing these groups, individuals, and practices to categorize themselves in relationship to the hegemony (Berry 2013:666; Winter 2015:4-5).

This hegemonic bicultural and bilingual account of Canada as a multicultural society became a source of tension between the state and Canada's cultural minorities (i.e. Ukrainians or members of the Jewish community) in the late 1900's. Keeping with the issue of language, I will demonstrate these tensions by recounting how linguistic education within Canada's public school system was understood and approached by the government, and how in turn, such choices were received by ethnic minority groups. For both the state and Canadian citizens, the transmission of cultural practices, like language, is a key component of maintaining and developing identity. For the state, institutionalizing multicultural ideology into the public-school system allowed for the reproduction of Canada as a settler-colonial society. The state proposed and enforced a pedagogy that prioritized the linguistic practices of the French and English (Haque 2012:105-107). Although state institutions and actors acknowledged the languages of cultural minorities as important to the nation, this was chiefly as a resource that could benefit the country's position amongst the international community (*ibid*:44). The issue with this approach was that although this choice

allowed for the Canadian state to sustain new forms of settler-colonialism in Canada, the centrality of language in the preservation of identities for members of the population meant that many ethnic minorities had a vested interest in ensuring that those with political power were committed to genuinely preserving a diversity of cultures. Commenting on this relationship in *Book IV: The Cultural Contribution of Other Ethnic Groups*, the government outlined the potential for the incorporation of unofficial languages into educational institutions, "...recommend[ing] that there be opportunities to study many languages" (Government of Canada 1969: 138). The stipulation was that these courses would only be offered at schools with "sufficient demand" (*ibid*:141).

Ironically, this top-down use of "sufficient demand" to avoid the incorporation of cultural practices of minorities into major social institutions was challenged by the demands of these very same groups. Cultural minorities pushed for a more political understanding of identities from the state, rather than the essentializing cultural rendition put forth by those with political sovereignty under the tenets of multiculturalism (Haque 2012). For example, the Ukrainian Canadian Students' Union was concerned with the government's lack of funding for the preservation of ethnic languages during 1970, with French-Canadian culture receiving 50,000,000 CAD in Quebec alone to put towards programs to preserve Francophone culture. This was compared to the 40,000 CAD that the state reserved for the entirety of Canada's ethnic communities. Noting this discrepancy, the Students' Union postulated that a genuine version of multiculturalism would be politicized, acknowledging the need for a system that presents all groups with the genuine opportunity to develop their culture alongside the nation (Haque 2012: 219-221). In addition to highlighting changes required within the current system of government, minority groups also used private schooling to carve out spaces beyond the scope of the government where cultural traditions could be perpetuated and identities developed (*ibid*). In these acts of resistance, ethnic groups clarify that

social citizenship was far more dynamic than portrayed within Marshall's (1950) triad of citizenship rights. Rather, it was co-constructed by citizens in accordance with many of their needs and desires (i.e. economic, legal, or cultural, for instance).

In the contemporary context, then, Canadian eugenics should lose its ability to prioritize race or cultural difference as a means of determining who is to be granted citizenship and who can reproduce the nation through procreation. Though, as scholars of critical multiculturalism in Canada suggest, multiculturalism is a far more deceptive form of ethno-nationalism. Relying on depoliticized forms of governance, identities, especially racialized and ethnic identities, that can be categorized as Other are evacuated of the historical meaning that they have developed through relationships with additional identities across time and space. Subsequently, they are reassigned value based on the desires of those actors and institutions which dominate in Canadian society (Chen 2016; Este et al. 2018). Xiaobei Chen labels this aspect of state-perpetuated multiculturalism the "cultural identity imperative", which relies on depoliticizing the neoconservative process that constructs "...ethnicized citizens within the white-centered hierarchy of belonging" (2016:285). This occurs by providing diverse groups with essentialized and culturally racist notions of what it means to belong to an ethnic heritage as a Canadian citizen. Chen (2016) is preoccupied with the experience of transnationally adopted and racialized Chinese children, who rather than being educated on the historical complexities of their culture, such as China's modern history of being imperialized by Western nations, are provided with objectified forms of Chinese cultures (i.e. the occasional consumption of Chinese food).

The evacuation of contextual meaning under the tenets of liberal multiculturalism applies to various aspects of Canadians' identities (Este et al. 2018). These include gender, class, sexuality, immigrant and refugee status, and ability. Extending Chen's (2016) logic, non-normative identities

are depoliticized and emptied of their historical significance, allowing for the hegemonic institutions and actors to reassign them meaning. My analysis of Tito's transnational surrogacy journey provides insight into how the depoliticization of identity occurs in transnational surrogacy. As I will describe at various points throughout my thesis, a genetic relationship between parent and child remains the Canadian standard for citizenship by descent and the ability to reunify one's family within Canadian borders. What this does for queer parents like Tito who face social and biological barriers for procreation - for example the inability of some LGBTQ2A+ parents to contribute or access the reproductive material necessary for a biological relationship between parent(s) and child(ren) due to the social stigma or high costs associated with assisted reproduction - is that it takes the complicated aspects of his sexuality and reduces them to being able to meet normative standard of heteronormative parentage.

It is important to challenge the notions of multiculturalism presented above, as in the past five years there has been a notable shift in the way in which the Government of Canada engages with the notion of multiculturalism. In many ways, this is reflected in critical multiculturalism's acknowledgement of an increasing number of identities facing discrimination under this tenet of governance in Canada. After the election of Justin Trudeau in 2015, Canadian multiculturalism has increasingly become about the acknowledgement that racism and other forms of discrimination prevent many demographic groups from experiencing complete inclusion in Canadian society. In 2019, this focus of the Liberal government culminated in *Canada's Anti-Racism Strategy: 2019-2022* (Government of Canada 2019^c). Developed by the Department of Canadian Heritage, this strategy was "...a \$45 million investment that will take immediate steps in combatting racism and discrimination..." (*ibid*). In part, this included the development of a Multiculturalism Program that will support "...intercultural/interfaith understanding, equal opportunity for individuals of all

origins, and foster citizenship, citizen engagement and a healthy democracy" (*ibid*). Although there are echoes of the cultural focus of historical forms of multiculturalism, I propose that the state's new rhetoric surrounding diversity in Canada raises considerations about how interrogating multiculturalism both as an ideology and practice must now involve understanding whether the practices and policies of the Canadian state, and the social actors that the Canadian state provides financial support to, are eliminating or worsening the level of exclusion that different groups and individuals experience in Canadian society. In the context of my own research, when I speak to multiculturalism, I give priority to this newer interpretation. This is because Tito undertook his transnational surrogacy journey in 2018, well after the Liberal government's focus on diversity and inclusion had been mandated and incorporated into the work of officials responsible for defining what multiculturalism means for the Canadian nation.

The Place of Family Migrants in National Reproduction

Family-related migration is a key component of the increased immigration occurring throughout the twentieth and twenty-first century. This category encompasses two types of families. First, are non-Canadian citizens who seek to cross into the Canadian territory. Second, are Canadian families who must both travel out of and back into the national territory, with the latter part of this journey being completed so family members are able to establish themselves amongst Canadian society as citizens. Both possibilities are important, as they reveal how the logics and methods of governance function. With regards to the former, Canada is an immigrant receiving nation, relying on high levels of immigration for population and economic development. Statistics Canada's (2017) recent report on immigration and ethno-cultural diversity reveals that 20.6 percent of Canada's population is comprised of immigrants, with family-related immigration falling under the family class, the skilled worker program, and refugee claims (Gaucher 2018;

Statistics Canada 2017). As a part of the *Immigration and Refugee Protection Act*, these programs provide a pathway to citizenship for incoming migrants with families entering as a unit and as individuals, often to join someone who has previously immigrated. The latter scenario, for instance, may involve an economic migrant sponsoring their parent or grandparent for permanent residency (Gaucher 2018).

Over the past four decades, there has been an astounding shift in immigration policy that has greatly impacted the management of immigrants sponsoring family members. Since the 1980s, there has been a notable decrease in the level of family-class immigration, coupled with an increase in Canada's acceptance of economic immigrants. From 1980 to 1990, 1,782,485 family-class immigrants landed on Canadian soil. In the period of 2011 to 2016, this number dropped to 324,595. By comparison, 428,360 economic immigrants landed from 1980 and 1990. By the 2011 to 2016 period, this number had risen to 731,115 (Statistics Canada 2019^a).⁷ In combination, the shift away from family migration towards economic immigration is indicative of a state application of neoliberalized notions of immigration, and by extension, Canadian citizenship (Bragg and Wong 2015:46; Dobrowolsky 2011:110). Aligning with neoliberalism as a major ideology underpinning the current political economy, desirable migrants are framed as socio-economically independent and able to financially contribute to Canadian society. As the antithesis to the economic class, families are portrayed as undesirable dependents of the state, posing "....an economic cost to Canadians and Canadian society" (Abu-Laban 1998:205).

The place of family in immigration, though becoming increasingly disparate since the 1980's, has always had a complicated role in Canada's formal immigration policies. This is

⁷ The reader will note that the first set of dates I cite (1980 to 1990) is a ten-year period rather than five-year period (2011 to 2016). This shift is tied to the history of Canada's *Census of the Population*, which after being mandated in the 1867 *British North America Act*, was to occur every ten years. In 1951, the rate of collection changed from once a decade to once every five years (Statistics Canada 2019^b).

especially true when accounting for intersections of race and gender. As a historical example, from 1885 to 1923, the Chinese Head Tax permitted male Chinese migrants to enter the nation, as this group was a useful source of disposable labour for projects like the Canadian Pacific Railway (Stasiulis and Jhappan 1995:112). Discriminating based on gender, the Canadian government severely restricted the entrance of Chinese women, and further because of class, permitting the entrance of the wives of Chinese merchants, but not labourers (*ibid*). In the bounds of reproductive citizenship, diminishing the presence of and potential for racialized families carries very clear neo-eugenic implications for reproduction of the nation-state. It is striking that Canadian reproductive citizenship depends on the attachment that families will develop to the nation over their life courses (Higgins and Fink 2008:378). In this, by choosing to systematically limit the presence of racialized, particularly feminized-racialized bodies, the state created a neo-eugenic policy that not only affected individuals migrating from China but also disrupted the potential future generations of Chinese-Canadians who could have been born on Canadian soil and developed an attachment to the nation across their life course. These restrictions continued to harm the reproduction of Chinese and other Asian families in Canada until the ‘liberalization’ of Canadian immigration policy in the 1960’s.

THE MULTICULTURAL FAMILY

The objectionable quality of some migrating families established historically extends into present day and is further compounded by socio-political ideology that frames some families as more attractive than others. Despite offering family-class migrants with the opportunity to join the national family, in the twenty-first century state enforcement of the *Immigration and Refugee Protection Act* currently relies on neoconservative notions of conjugality to decide who is eligible for entry and membership to the nation (Gaucher 2018:40-44). This manifests in several ways.

First, is the prejudicial treatment of LGBTQ2A+ refugees because of their inability to 'legitimate' their sexuality to state actors through the practicing of queer relationships while establishing themselves in Canada; this discrimination occurs despite recent changes to explicitly acknowledge and incorporate sexually diverse individuals into refugee policy. An additional example is the need of spousal sponsors to demonstrate the 'conjugal' nature of their relationship through documented economic co-dependency or sexual intimacy. Finally, is Stephan Harper's government creation and enforcement of a marriage fraud campaign to crackdown on fraudulent applicants who sought to jump the immigration queue by exploiting the emotions of susceptible Canadians (*ibid*:143).

Racism underpins these examples, with a disproportionate number of immigrants being denied access to Canada when coming from the global South. For example, Harper's marriage fraud campaign singled out applicants from India, Pakistan and China (*ibid*).⁸ This racist component of Canadian immigration policy intersects with disability (El-Lahib 2016; Gaucher 2018; Hanes 2011). The legacy left by settler-colonial eugenic mentalities in a globalized world constructs Canada as a global North land of opportunities. Yet, immigrants who live with disabilities, particularly those from the global South, face overt discrimination during the application and settlement process due to their assumed socio-economic dependency. However, this prejudice exists within a hierarchy of ability, as it is those individuals who do not "...pose an economic burden on health and social services systems" that are more likely to be received as immigrants" (El-Lahib 2016:759). This prejudice against more severely disabled immigrants clearly manifests in the 2001 version of the *Immigration and Refugee Protection Act*. Section 19 stipulates that disabled immigrants are admissible but only when they will not cause excessive demand (Hanes 2011). Under this clause, excessive demand is defined as exceeding the "...average

⁸ See *Yu v. Canada* (Citizenship and Immigration Canada 2008) and *Lin v. Canada* (Citizenship and Immigration Canada 2011) as two examples.

Canadian per capita health services and social services cost over a period of five consecutive years..." (Hanes 2011:118).

This scholarship exemplifies intersectional governmentality as it highlights the factors that inform the Canadian state's use of the policies related to citizenship as technologies for governing immigrant and Canadian families. Transnational families, whether newly formed or reunified, in a global neoliberal political economy remain grounded in numerous state-related ideology (i.e. heteronormative, neoconservative, or neoliberal). This means that although there are partisan differences in how such principles will be incorporated into strategies of bio-political governance, these ideologies are ubiquitous across all or most state parties. The policies surrounding family sponsorship in the *Immigration and Refugee Protection Act* further demonstrate the consistency in social, political, and economic thought in legislation related to citizenship. In recent Canadian history, both Stephen Harper's Conservative and Justin Trudeau's Liberal government have enforced that under this act, Canadian parents applying to sponsor their child(ren) for permanent residency must be able to prove that there is a genetic link between the offspring and an applicant. This metric is a powerful mechanism for population regulation, particularly with migration being up to those who challenge normative notions of race or sexuality amongst other factors, as the Canadian government is unable to implement more blatantly partisan and exclusionary family immigration policy. In fact, although Canadian political policies tend to restrict family movement, there is an expectation that the conception of kin used in immigration policy should match the definition of conjugal relations used in Canada's family law (i.e. allowance of LGBTQ relationships or adoption) (Marvah et al. 2013:109-110). This expectation does not hinder the Canadian state from finding ways to secure itself, with genetics as a metric for inclusion to the nation allowing for families, especially social families who are less likely to be able to participate

in biological parentage, to be constructed as a risk that could delegitimize the state's bio-political preference for traditional parentage.

Securing the Family and Nation through a Globalizing Regime of Government

The need for a secure population and protection of state interests often manifests as the maintenance of a global status quo or harmonization of global forms of governmentality (Larner and Walters 2004). As the status used to differentiate between those who belong to the Canadian population and those who do not, the processes related to Canadian citizenship serve as an effective tool for global governance. Rygiel (2008) calls the state's use of the legislative frameworks related to citizenship a "globalizing regime of government", with increasing relations between state representatives, international organizations, and the bilateral and multilateral arrangements of policies allowing for political activity to occur within, between, and across states (2008:211). She focuses on borders as an essential component of globalizing regimes of government. For nation-states, territorial boundaries serve as a site where technologies can be used to secure the nation-state against those who have been separated or wish to separate themselves from the territory associated with their citizenship status. The technologies of governmentality used to secure a nation's borders include the national-legal frameworks related to citizenship, passports, national identity cards, biometric scanners, visa officers, and border patrol officials (Rygiel 2008:213). Such tactics apply to 'illegitimate' immigrant families, with immigration officers and consular officials acting as a part of the regime that can restrict individuals' ability to enter Canadian borders and establish themselves as members of the population (Gaucher 2018).

THE ROLE OF BIOTECHNOLOGIES IN NEOLIBERAL REPRODUCTION

With regards to transnational procreation, conceiving and birthing children abroad separates family from the Canadian territory, disrupting the presumed national-biological

relationship associated with traditional notions of parentage. In part, the denial of presumed parentage is linked to the rise of assisted reproductive technologies in a global neoliberal political economy. As a form of biotechnology, the invention and proliferation of assisted reproductive technologies on the global market opened the opportunity for Canadian families to fulfill their procreative desire, despite the Canadian state's expectations. This expansion of assisted reproductive technologies is a part of the rise of neoliberal forms of reproduction. Tracing the beginnings of biotechnological advances to the 1970's, Melinda Cooper (2008:19) explains that it was during this time that the United States' economy needed restructuring for it to succeed in a post-industrial context, with biotechnologies being articulated as a part of the solution to the environmental destruction caused by industrialization. Needing to reinvigorate the economy, the creation and use of biotechnologies is also tied to neo-imperialist desires for domination of the global economy. Eventually incorporated into the larger economy, biotechnologies served as a means of eliminating the limits put on economic growth (Cooper 2008:56). In the United States, this shift to a global neoliberal bio-economy was actively supported by the Reagan administration, with the passing of trade intellectual property rights, the privatization of healthcare and medical services, and the perpetuation of the rhetoric of biological warfare and terrorism, as examples (*ibid*:26-28). I do not want to conflate the rise and application of neoliberalism in the United States with the actions of other governments. However, I elaborate on some of the United States' neoliberal actions because as one of the nations that brought neoliberalism to the forefront of governance practices, a discussion of the United States' role in the proliferation of this dimension of the political economy is an important part of understanding neoliberalism's history. To ensure that the Canadian perspective is not lost amongst a conversation about the United States, I will end the next section with a brief elaboration of the Harper government's barring of abortion in countries

receiving Canadian foreign aid.

Eugenic Echoes: Reproducing in a Global Neoliberal Political Economy

Since the rise of a global neoliberal political economy in the 1970s and 1980s, the neo-imperialist aspect of the bio-economy becomes apparent in the application of technologies as bio-political strategies for domination. For example, the use of trade-related intellectual property rights in countries from the global South barred generic forms of medication that were needed to address population health issues like HIV and AIDS. Furthermore, the United States dissuaded developing countries from evoking article 31 of the World Trade Agreement on AIDS Medication. This clause allows for non-patented medication to be made available during times of crisis (*ibid*). Tracing a genealogy of neoliberal political economic development, Cooper's (2008) critical perspective on neo-imperialism is a reminder that a Westernized state's ability to subject another nation, group, or individual to undue suffering is a bio-political process that relies on Othering. Once again, taking the example of the AIDS pandemic, during the 1980s, the United States government used a national security discourse to portray the threat of racialized global South nations, stating that the solution to this issue was "...reabsorbing the whole sphere of biological, social reproduction and sexual politics within the sphere on military concerns" (Cooper 2008:64-65).

The militarization of bio-politics manifested in numerous ways, including the implementation of a national defense strategy against biological terrorism. This included creating a biodefense research strategy and the authorization of 5.6 billion USD for the purchasing and stockpiling of medical supplies necessary for defending against "threats" from the global South (Cooper 2008:74). The hypocrisy of the bio-political strategies emerging at the forefront of a neoliberal political economy is that in facilitating a discourse and practice of racialized violence, countries of the global North prevented the developing world from obtaining the items necessary

in protecting itself against the public health threats they faced. There is intersectional nuance to the neo-imperialist aspect of biotechnologies. Sexism plays an essential role in determining which members of global South countries are subject to imperialist domination, with female bodies being exposed to a disproportionate amount of global North states' schemes (Eichler 2015; Vora 2015). Infringing on women's reproductive autonomy, in 2010 Harper, as Canada's then Prime Minister, opted to cut the foreign aid Canada was providing to global South countries (Clark 2010). When confronted about this decision, Harper explained that abortion is a rather divisive issue for Canadian tax-payers and that the money set aside for aid could be put towards other reproductive health programs like providing women in the global South with contraception, which would have been less controversial for Canadians (*ibid*). Critics of Harper's strategies for foreign aid labelled the decision as enforcing conservative reproductive practices, denying women in the global South from the abortion services that global governance organizations like the World Health Organization and the United Nations deem to be an essential component of women's rights (Do 2014).

As a component of Canadians fulfilling their reproductive desires, the use of assisted reproductive technologies adds a neo-settler-colonial component to transnational family formation. As the above paragraphs suggest, the decentralization of top-down forms of governance means that the Canadian state plays a key role in the enabling of this violence. Nevertheless, as subjects of governmentality, Canadian families are also implicated in this process. At the supra-national level, citizenship enables Canadians to pursue opportunities that citizens of the global South may not be afforded. Ayelet Shachar (2009) articulates the privilege, power, and opportunity granted to those with citizenship to the global North as a result of winning a birthright lottery. Mobility is amongst these benefits, with the ability to travel for the fulfillment of one's

reproductive desires at the expense of another nation's subjects as an instance. One of the main limitations to Shachar's theory about citizenship is that it fails to account for the level of belonging that certain groups and individuals experience within 'powerful' Westernized nation-states. For some, second-class citizenry is reflected in the failure of the state to fulfill citizenship entitlements (i.e. access to healthcare or adequate food and housing). From the perspective of the migrating citizen, acknowledgement or criminalization of one's kin and the ability or inability to cross the border as a family situates mobility as a key component of the true fulfillment of one's social citizenship. Not only should a Canadian family be able to leave the territory associated with their national identity, all members should also be able to retain the unequivocal ability to re-enter the nation.

In this instance, citizenship as a political and social status also takes on legal-judiciary qualities, with the processes of the state's administrative and legal apparatus used to restrict or criminalize the movement of those Canadian families who present a risk to the nation (Simon 2013:515). As a part of the Canadian state's globalizing regime of government, the ability to cross the border is a part of a much longer state project of determining which Canadian families are legitimate. Extending the racialized logic of the application of assisted reproductive technologies, citizenry carries neo-settler-colonial connotations, reflecting Canada's beginnings as a white settler-colony (Harder 2015). This is evident in the Canadian state's reliance on policies which demand that immigration officers and consular officials be trained to use a proven genetic relationship as the sole determinant for whether children born abroad using assisted reproductive technologies should be eligible for citizenship by descent (Harder 2015:120; Government of Canada 2014). If Citizenship and Immigration Canada insists on genetic testing, applicants are expected to cover all costs associated with the process. These fees could include those associated

with take a DNA sample or using a courier (Government of Canada 2015). In addition, the government demands that all testing be carried out at a laboratory accredited by the Standards Council of Canada; a requirement that can cost about 600 CAD (*ibid*).

There are two aspects of the Canadian state's strategy for genetic testing that I want to highlight. First, by acting as representatives of the state, immigration officials and laboratory employees are a part of the processes of governmentality, allowing for the Canadian government to reinforce the notion that biological 'Canadianness', and by extension the ideological preference for whiteness, can be passed down through parentage. Moreover, making migrants pay for the testing necessary for family reunification reaffirms the neoliberalization of Canadian citizenship (Bragg and Wong 2015:46; Dobrowolsky 2011:110). This is particularly important for immigrants in the family-class who are often framed as undesirable because of their socio-economic dependency. Yet, the policy surrounding genetic testing clearly creates a scenario in which the families who would be able to access Canada must be financially independent enough to cover all the costs associated with migration (i.e. travel fees, the charges associated with filing an immigration application, or the additional costs of genetic testing).

CONCLUSION

It is the tie between familial and national reproduction that the transnational Canadian family puts into question, with the Canadian state having to engage with these families as a potential risk to protect its bio-political interests in an era which emphasizes agency. Reproductive citizenship binds together procreation and nation. This allows for the relationship between these two notions, whereby the family and country are endowed with characteristics and for the Canadian government to govern over transnational Canadian families using a globalizing regime of government. What is outlined throughout this chapter are the nuances of this relationship. I have

proposed that the transnational Canadian family is founded on and perpetuated by institutionalized and eugenic-oriented, neoconservative, multicultural, and neoliberal political ideologies. These principles are incorporated into a globalizing regime of government that favours Canadian families who, despite travelling abroad to pursue non-normative forms of procreation, are submitted to white, middle to upper class, ableist, and heteronormative expectations of familial relations. For the Canadian state, actors, policies, and processes related to citizenship are of utmost importance in governing, as each of these are used in determining which Canadian families are legitimate and which families represent the threat of the Other, exposing the depoliticized myths that the Canadian state relies on to perpetuate itself in line with neo-settler-colonial hegemony. In a global neoliberal political economy, which relies on bodies and biological features for the accumulation of power, the principle of *jus sanguinis* takes priority. Such emphasis allows for the validity of a transnational Canadian family formed using assisted reproductive technologies to be tested, relying heavily on a family's ability to prove that a child shares a genuine Canadian tie, both to their intending parent and the nation.

CHAPTER 3: TRANSNATIONAL SURROGACY AND GLOBALIZING REGIMES OF GOVERNMENT

In this chapter, I provide analyses related to my two research questions: *how does the Canadian state govern Canadian families that use transnational surrogacy arrangements* and second, *how does this governance affect the citizenship outcomes of children born using transnational surrogacy?* Primarily, I do so by providing a critical policy analysis of the policies, technologies, and actors related to citizenship in Canadian families' use of transnational surrogacy. Because of the complexities of transnational reproduction, I supplement my critical policy analysis with exploration of scholarship focusing on current understandings of Canadians' use of transnational surrogacy, as well as this practice more broadly. I first explore surrogacy as a national and transnational phenomenon, both of which are addressed as a matter of reproductive citizenship. Within Canada, the *Citizenship Act* and the *Assisted Human Reproduction Act* are introduced as the two policies that relate to surrogacy, facilitating a neoconservative, neo-eugenic, and neoliberal political climate that catalyzes Canadian families to pursue transnational surrogacy.

Following this policy analysis, I provide the reader with the basic characteristics of transnational surrogacy arrangements including level of formality, level of commodification, and type of reproductive material used. Of the insights presented throughout this section, the most prominent is that transnational surrogacy disrupts the Eurocentric and heteronormative notions of biological parentage in the Canadian context. It does so by increasing the number of individuals who can act as the biological or legal guardians of a child, with the ability to use an ovum or sperm from a third-party donor being one example of how the presumed relationship between parent and

child formed through birth is interrupted.⁹ Where the Canadian state is invested in governing over the family unit, the policies related to assisted reproductive technologies and citizenship in the states of the surrogate and third-party donors, as well as the actors related to this legislation, are examined in relation to the governance of transnational Canadian families.

These policies, in combination with Canada's *Assisted Human Reproduction Act*, *Citizenship Act*, and the *Immigration and Refugee Protection Act* form a globalizing regime of government. Consistent with my discussion of Rygiel's (2008) work in my second chapter, this system is used by the Canadian state to engage with the families formed through transnational surrogacy. For the Canadian state, securitizing the nation requires using this system of governance to differentiate between legitimate and illegitimate families on the basis of factors such as race, ethnicity, gender and sexuality, disability, as well as immigrant status, all of which reflect the multicultural, neoliberal, neoconservative political ideologies associated with Canadian reproductive citizenship. Throughout my analysis, I emphasize newer variations of multiculturalism which stresses the removal of barriers to inclusion in Canadian society. However, given that historically multiculturalism came to function as a form of ethno-nationalism, I am driven to analyze the ways in which the Canadian state continues to create or perpetuate exclusions for non-normative (often racialized) families. As I discuss in the previous chapter, Canadian citizenship is becoming increasingly neoliberalized, emphasizing that access to membership is increasingly for those who can make an economic contribution to the nation or who are socio-economically independent. Finally, neo-conservatism signals a tendency towards more traditional notions of the heteronormative family, as is reinforced by the Canadian state's active

⁹ As I discuss later in this chapter, it is possible for children born through gestational surrogacy to have up to five parents. These parents include the surrogate, who will only be responsible for gestating the child; up to two commissioning parents, who should become legal guardians; as well as two donors, who by contributing their egg and sperm would be considered a child's biological parents.

role in incorporating procreative practices into state processes. In the most severe instances, the construction of some families as a threat results in the children born experiencing citizenship deprivation.

SURROGACY IN CANADA

The Citizenship Act

Understanding the bio-political governance of surrogacy as a form of familial and national reproduction within Canadian borders requires interrogating two pieces of federal legislation. First is Canada's *Citizenship Act*. Second is the *Assisted Human Reproduction Act*. The *Citizenship Act*¹⁰ allows for the state to determine which children born through nationally-based surrogacy arrangements will be granted formal political membership. In the Canadian jurisdiction, where citizenship laws are informed by *jus soli*, Canadian families are almost unequivocally able to secure birthright citizenship for their children (Government of Canada 2019^a). An example of the state excluding children is found under section 3, subsection 2(a), which outlines the denial of citizenship for children born to diplomats or consular officials (Government of Canada 2019^a). As my outline of the role of the state in familial and national reproduction in Chapter Two suggests, this is because reproductive subjectivities in Canada are institutionalized into state processes, including those associated with citizenship and conjugal relationships. In this manner, the state can avoid the risk of Canadian families' procreative choices not aligning with state ideals of the family; a model central to reproducing Canada as a neo-settler-colony, reflecting its racist, sexist, ableist, and classist inequalities. As I elaborate on in the latter part of this chapter, beyond national

¹⁰ The versions of the *Citizenship Act* that I am referencing and analyzing are those that affect Tito's transnational surrogacy experience. The first of these was released on April 17th, 2009 by Harper's Conservative government. The most recent came into effect on July 12th, 2019. For those readers interested in seeing iterations produced between the 2009 and 2019 version, please consult the following link: <https://laws-lois.justice.gc.ca/eng/acts/c-29/PITIndex.html> (Government of Canada 2019^d).

territory, use of the *Citizenship Act* to regulate Canadian families during transnational surrogacy is far more complex. Drawing on geo-politics and biology as the assumptions underpinning Canadian reproductive citizenship, the Canadian government relies on genetics as a metric for parentage and limits the birth of Canadian citizens abroad to one generation to hegemonically reproduce the nation-state (Government of Canada 2019^a).

The Assisted Human Reproduction Act

The relative simplicity of the Canadian state allocating birthright citizenship to the children born through national surrogacy arrangements is compounded by the complexities of the *Assisted Human Reproduction Act*. This piece of legislation serves as a regulatory framework for assisted reproductive technologies in Canada, including those like in-vitro fertilization which are needed for surrogacy. To date, the Government of Canada has produced three versions of this act. The first appeared in 2004 (Government of Canada 2004), with amendments passed in 2012 (Government of Canada 2012) and 2019 (Health Canada 2019). Despite the changes, the following section is dedicated to outlining and analyzing the original *Assisted Human Reproduction Act*. I have done so for three reasons. Foremost, because it is foundational to the socio-political climate that currently surrounds Canadian surrogacy. Moreover, it provides insight into how the rise of biotechnologies has affected the relationship between Canadians' and the state's notion of family. Finally, even after amendments, a large portion of the first version remains in effect and is central to understanding the versions of the *Act* which affect Tito's surrogacy journey.

The original legislation is based on recommendations made by the 1989 Royal Commission of New Assisted Reproductive Technologies. Tasked with determining how emergent reproductive biotechnologies should be regulated within Canada, Commissioners consulted feminists, medical practitioners, ethicists, and members of the Canadian public. With regards to

surrogacy, the Commission emphasized two issues. First, is the potential for exploitation, particularly of women, through the commodification of the processes associated with birth. Second, though related to the last point, is the need for all individuals to act with free and informed consent. Hoping to counter the potential for economically-driven exploitation, it was suggested that the "provision [or all pregnancy related expenses] be removed to ensure that there would be no financial incentive for a woman to become a surrogate mother" (Rivard and Hunter 2005:118). This means that for the women who want to serve as surrogates, they would have to do so altruistically. Furthermore, and concerned with exploitation through the application of assisted reproductive technologies more broadly, the Commission stated that there should be no economic component to the trade or use of reproductive material and in-vitro embryos (Rivard and Hunter 2005). Building on the assumption that the misuse of biotechnologies intersects with other factors like age, recommendations were made regarding the minimum age of donors, as well as users of reproductive material and technologies to facilitate Canadians' ability to act 'autonomously' (*ibid*).

Under the 2004 version, these suggestions were almost ubiquitously incorporated into the *Act*, with policy officials creating a piece of legislation founded on feminist and liberal principles. Specifically, sections 6, 7, 8, and 12 present the regulations pertaining to surrogacy. Section 6 outlines which actions associated with birthing a child for another person are deemed illegitimate by the state at the federal-level. These activities include offering to pay someone to serve as a surrogate or acting as an intermediary in a surrogacy agreement. Sections 7 and 8 address the purchase or sale of embryos as well as the use of assisted reproductive technologies, with the government legislating that such acts remain non-commercialized (Government of Canada 2004). In conjunction with the previously listed rules, section 6(4) seeks to ensure that surrogates pursue action with free and informed consent by requiring all women agreeing to birth for another to be

of twenty-one years of age or older (*ibid*). Adopting a similar stance for the use of reproductive material, all gametes must be obtained through a consensual agreement with a donor who is at least eighteen years of age (*ibid*). It is also briefly worth noting that the Government of Canada also sought to use the *Act* to protect the families that use assisted reproductive technologies. To do so, the document states that parents should not be discriminated against "...on the basis of their sexual orientation or marital status" (Government of Canada 2004:2).

New technologies, same ideologies

The qualities described in the above paragraphs have led Canadian-based surrogacy to garner a positive reputation on the global stage. Both nationally and internationally, Canadian surrogacy is well known for respecting diversity in family structure and upholding altruism as a uniquely Canadian value (Deomampo 2015; Fulfer 2017). Given the state's original unwillingness to commodify key components of the surrogacy process and the explicit reference to the prevention of discrimination against the families drawn to surrogacy, this progressive stance seems reasonable. Yet, I am skeptical of this socially and politically progressive understanding of Canadian surrogacy. Rather, I argue that the *Assisted Human Reproduction Act*, both in its discursive and interventionist aspects, is largely informed by variations of the political ideologies revealed as underpinning the Canadian family within the previous chapter. In this instance, neo-conservatism and neo-eugenics are relevant, once again valuing certain families over others on factors of gender and sexuality, as well as race and disability.

James Farney and David Rayside explain that neoconservative governance is generally linked to more traditional conservative desires, such as Toryism in the Canadian context, for a

strong state (2013:4).¹¹ In this model, political authority is applied actively, and often paternalistically or coercively, to affairs concerning the population being managed. By extension, this governance is driven by the belief that state rule plays an important role in maintaining social morality and traditional values. One example of these traditions are normative gender roles within the Canadian family (*ibid*:7). The neoconservative tendency towards sovereign centrism is signalled by the creation of the *Assisted Human Reproduction Act*, allowing for state authority to be incorporated into the entirety of the surrogacy process. Within the *Act*, state rule over the affairs of Canadian citizens is further signalled by the "designation of inspectors" made possible under section 46 (Government of Canada 2004:10). This clause allows "the Minister [to] designate persons or classes of persons employed by the Government of Canada or a province as inspectors for the administration and enforcement of this Act" (Government of Canada 2004: 10). In choosing to incorporate section 46, not only did the Government of Canada directly involve state actors in the surrogacy process, it did so in a manner that aligns with the neoconservative propensity for the active enforcement of political domination. The coercive nature of this administration is furthered under section 60, in which offences and punishments for failing to abide by the *Act* are outlined. For surrogacy, this equates to the possibility of being fined for up to 500,000 CAD or imprisoned for up to 10 years, depending on the severity of the crime (Government of Canada 2004).

State paternalism, as a mechanism for enforcing neo-conservatism, is also evident in the creation of mechanisms that regulate the morality of a surrogate's actions based on their ability to act with "...selfless concerns for the well-being of others" (OED Online 2019). In combination within the notion that from a top-down perspective, "the family-unit's core mission is procreative",

¹¹ Within Canada, Toryism "...is an analytical framework that conceives of society as a hierarchically ordered and organically interdependent whole, governed or shaped by norms that are imputed with truthfulness..." (Farney and Rayside 2013:4).

the altruistic elements of the original *Assisted Human Reproduction Act* put Canadian surrogacy in a rather unique position. Specifically, even when Canadian families cannot fulfill their moral obligation to become parents in a normative way, surrogates are able to supplement this role, with their selflessness not only benefitting social families but also the Canadian state through the creation of new citizens. Speaking to the final point, surrogacy in Canada opens heteronormative procreation up to those for whom it was not always accessible, with additional legislative measures implemented to protect such families. Nonetheless, the interventionist practices related to hiring a birth mother perpetuated heteronormative understandings of biological reproduction by facilitating an institutional and social climate that allows social families to be discriminated against, ranked on gender, sexuality, relationship status, race, and class status.

Rachel Epstein (2017) presents the narratives of three queer couples who have used Canadian fertility clinics to access reproductive biotechnologies. In interviewing these families, it is revealed that Canadian fertility clinics institutionalize normative ideologies surrounding family. With regards to the neoconservative tendency towards heteronormativity, this preference is reinforced by clinic employees who, in the use of biotechnologies, are able to treat procreation as a purely biological process. Taking a biological focus, the social complexities of Canadian parentage are reduced to a process requiring sperm (the male component) and an ovum (the female material) (Epstein 2017). Take the case of Stacey and Nina. The pair are a white, lesbian couple. While Nina is a cisgender woman, Stacey is a transgender woman. When asked about their experience, the couple states:

Stacey: ...there were tons of factual inaccuracies in all our documentation. I had a health card that lists me as female correctly and on their charts, they had me listed as male. So, we told them that's not correct. And instead of trying to remedy the situation, they were defensive about how difficult it would be to do that. So, they wrote down, basically, that Nina was a heterosexual woman - which she's not - and that I was...uh...the potential 'father'...who has, you know, sperm problems...

Nina: Yeah, they wanted to treat us as a straight couple with male-factor infertility. (Epstein 2017: 1045-1046)

Indeed, this discussion of the experiences of queer families illuminates how complex gender and sexual identities are undermined during treatments at the Canadian fertility clinic, ultimately re-writing them to be components of heterosexual reproduction.

However, there are two other points I need to bring forth. The first is that because the discursive and interventionist fields are relational, the state's attempt to embed family with neo-conservative ideology begins with legislation. Epstein's (2017) study frames reproduction as a biological process that allows for the institutionalization of heteronormativity. In a similar fashion, the *Act* also does this by prioritizing the regulation of biological processes and technologies, failing to comprehensively incorporate critical understandings of how choices made within the discursive realm will affect non-normative parents. Additionally, there is a continuation of neo-eugenic ideology in the governance of families through the depoliticizing social identities and inequalities by framing them as individual biological deficiencies that can be remedied, at least in part, through biotechnologies (McLaren 1990). In the case of Stacey and Nina, this neo-eugenic tendency manifested as clinic employees insisting that the complexities of their own gender and sexual identities, and their choice to become parents, can be reduced to "...a straight couple with male-factor infertility" (Epstein 2017:1046).

The erasure of social identities does not end with gender and sexuality, as the intersection of race gains relevancy. As a Black participant in Epstein's project clarifies, "A lot of times at the

clinic we've been the only Black people. They have these walls of photos, and...out of three hundred photos, there might be two [Black children]. And so, it's like...how could we end up here...?" (2017:1044). Within Canada's multicultural society, which purports diversity and equality, the white-centric nature of Canadian fertility clinics speaks to Canada's roots as a white settler-colony. In the above scenario, this manifests as light-skinned babies being framed as desirable and featured predominantly, and Black children as invisible in surrogacy clinics (Epstein 2017). Given that I cannot determine whether Black families are not visible because they do not participate in assisted reproduction or because the clinic hides their racialized clients, the neo-eugenic nature of the governance of families that use assisted reproductive technologies in Canada can be described as the creation of a culture where undesirable bodies are not overtly excluded. Rather, those who cannot fulfill normative assumptions about Canadian parentage, such as queer or racialized individuals, are ostracized on the basis of their biological features and processes.

Globally, the limited literature on the experiences of parents who use transnational surrogacy expresses similar sentiments, with sexuality, relationship status, infertility, and socio-economic status as four of the most commonly cited reasons for deciding to pursue procreation abroad (Carone et al. 2017; Arvidsson et al. 2015; Gezinski et al. 2018; Murphy 2015; Petersen 2018). Amongst these factors, emphasis is given to sexual orientation and relationship status, as lack of legislative recognition of, or social support for, variations in queer parentage within a commissioning parent's country of origin catalyzes such individuals into the global market for solutions to their reproductive desires. As one parent in the United States' recounts, despite originally hoping to adopt, "[the local adoption agency was] just giving me the run around because I was a gay male" (Gezinski et al. 2018:178). Although never experiencing blatant discrimination, the stigma associated with queer parentage in the United States manifests as an ongoing delay in

the adoption process and the inability for intending parents to pursue their original desire to adopt, turning to the global surrogacy market as an alternative (*ibid*). Sexuality and relationship status are at times compounded by infertility, for both heterosexual and queer parents. As interviews with Swedish customers of transnational surrogacy reveal, individuals and couples with fertility issues often use or attempt to use nationally-based reproductive biotechnologies. When these options fail, parents adopt a narrative of hiring an internationally-located birth mother as a last resort. As one participant states after attempting in vitro fertilization, "Yes, I have done everything I can. I reached the point where my body said 'Enough, no more now.' Knowing that I've done all that I can made me feel reassured about taking that decision [regarding transnational surrogacy]" (Arvidsson et al. 2015:5).

Amending the Assisted Human Reproduction Act, 2012 and 2019

September 30th, 2012 marks an important day for surrogacy in Canada, as an amendment to section 12 of the *Act* allowed for the reimbursement of expenses related to the donation of sperm or ovum, the maintenance or transportation of reproductive material, surrogacy-related expenses, and for a surrogate's work-related income over the course of the pregnancy (Government of Canada 2012). Also, under revisions to section 12, no receipt was needed as proof for reimbursement (*ibid*). From an ideological standpoint, this change marks a transition from neo-conservative oriented policy towards a neoliberalized one, with one of neoliberalism's key features being "...the cast[ing] [of] the political and social spheres both as appropriately dominated by market concerns and as themselves organized by market rationality" (Brown 2006:694). In Canadian surrogacy, this tendency manifests as the commercialization of some processes related to surrogacy. Aligning with Foucauldian theory, state movement towards neoliberalism is not complete, but retains neo-conservative and neo-eugenic qualities of the original version of the *Act*;

enforcing altruism as a uniquely Canadian quality exemplifies such preservation (Deomampo 2015; Fulfer 2017; Snellart et al. 2008). As Wendy Brown advances, this combination of neo-conservatism and neoliberalism is indicative of Westernized nations in the current political economy, with "...neoconservatism...born in part as a response to capitalism's erosion of meaning and morality..." (2006:699), attempting to stabilize society by rooting it in a set of core traditional values and institutions to uphold such principles.

One of the problems with this blend of neoconservative, neo-eugenic, and neoliberal oriented governance is that the government's push to neoliberalize components of birthing for another has unclear limits on the level of commodification. Specifically, the 2012 act is clear about the criminalization of assigning monetary values to biological processes. Nevertheless, by allowing for the reimbursement of expenditures, without enforcing the verification of such costs, legal ambiguity is created. As a result, intending parents can find themselves paying over 80,000 CAD to have a child through surrogacy in Canada (Smith 2018). Since the 2012 amendment, such uncertainties have been addressed by birth mothers, intending parents, and experts on surrogacy. As social parent Liz Ellwood states in an interview with the Canadian Broadcasting Corporation, "[Using surrogacy] was incredibly difficult. There was a lot of grey areas to sort through. You couldn't really determine what was legal and what was not legal" (Puri 2017). With growing concern about the repercussions of this unclear legal-financial framework, Bill C-404 presented these issues to the House of Commons. Accepting the proposed changes, Health Canada added new amendments to the *Act* in June 2019. In a release titled "Reimbursement Related to Assisted Human Reproduction Regulations: SOR/2019-193", Health Canada outlines these alterations, clarifying the terms of compensation for donating sperm or ova, the maintenance and transport of *in vitro* embryo, and surrogacy under section 12 (2019). With regards to surrogacy, the following

expenditures are now listed as reimbursable: travel expenditures, money spent for the care of dependents or pets, counselling services, legal services and disbursements, the services of a midwife or doula, groceries, or prenatal exercise classes amongst others (Health Canada 2019).

Only time will reveal how these new changes will affect the nature of surrogacy. Still, one of the noted consequences of how the Government of Canada has regulated surrogacy until June 2019, is that it facilitates Canadian families' choice to pursue transnational surrogacy. This is what Kristin Lozanski labels "Canada's contradictions", whereby the bio-political governance of Canadian-based surrogacy creates a high-cost system that values kinds of gendered, racialized, able, and classed kin relations (2015:383). In maintaining this position, Canadian parents who fail to abide by the Canadian state's expectations of family attempt to fulfill their reproductive desires transnationally. Often, intending parents' reproductive mobility takes them to unethical markets located in the global South, where national legal frameworks are non-existent or so stringent that informal and low-cost markets have opened (Cooper 2008; Lozanski 2015; Vora 2015).

The effect on destination and ethics

The unaffordable nature of surrogacy is not just a concern in Westernized countries, with commissioning parents from around the world expressing similar sentiments. The paradox to this economic component of surrogacy is that many social parents belong to the upper-middle or upper class of their respective societies (Arvidsson et al. 2015:3; Petersen 2018:695). For Michael Petersen, this contradiction demonstrates that for intending parents, class and the privileges associated with it are not merely structural positions of power (2018:699). Rather, such individuals experience their class status relationally, especially with other social parents. For the commissioning parents of transnational surrogacy, a key repercussion of their socio-economic positioning is the restriction of their reproductive mobility, and by extension, the limiting of their

ability to participate in an ethical agreement. There are two sets of participants from Petersen's (2018) study that exemplify these confines. First are Jesper and Thomas, whose 'poorer' economic circumstances led the pair to hire a surrogate in India, "...not as a choice amongst global destinations; instead, it was the only choice" (Petersen 2018: 699). Though the pair express experiencing significant economic well-being in Danish society, they still "...had a hard time financing [surrogacy]" (Petersen 2018: 699). By the end of their journey, the couple had taken out a small bank loan and two additional mortgages against their house. Anna Arvidsson and their co-authors (2015) interview Swedish parents in economic circumstances similar to Jesper and Thomas. Throughout this study, although parents emphasize the potentially vulnerable position of surrogate mothers, they ultimately reject the possibility for exploitation, rationalizing their choice by emphasizing the benefits of surrogacy for both the birth mother and intending parent(s). By comparison, Lars describes he and his partner as having the financial means to pursue surrogacy with no concern. With money as no object, Lars expresses a greater sense of autonomy in fulfilling his reproductive desires, with this privilege allowing for numerous destinations to be considered (Petersen 2018:700). For Lars and his partner, this difference in economic status is also associated with the conscious ability to act ethically. As Lars furthers when asked why he and his partner chose the United States over India, "I'm not saying India is exploitation of the poor. But the possibility is there, and that's enough for us to choose [the United States]" (*ibid*).

National ambitions, transnational realities

The experience of individuals and couples who opt for surrogacy and assisted reproductive technologies are bound by a common theme: that although individuals do end up procreating transnationally, original attempts often involve trying to have a child in the country associated with their citizenship. In such instances, those individuals who use transnational surrogacy initially

pursue avenues of family formation that abide by the geo-political or biological assumptions embedded in many states' notions of reproductive citizenship. For the Canadian state specifically, such assumptions include the principles of *jus soli* and *jus sanguinis*, allowing for children to be conferred citizenship by descent or birthright citizenship depending on the genetic relationship that they share with their parent as well as their country of origin (Collin 2014; Higgins and Fink 2008). I proposed in the previous chapter that Canadians' choice to use transnational forms of reproduction allow for such families to be constructed as a risk to the nation-state. Within the use of transnational surrogacy, 'risk' is not just a status but rather it is processual, with social parents going through phases of attempting to abide by, abiding by, or contradicting the principles of Canadian reproductive citizenship.

UNDERSTANDING TRANSNATIONAL SURROGACY

Characterizing the Exchange

Having established that Canadian parents travel abroad to reproduce, I must elaborate on the character of transnational surrogacy. Simply, this is because transnational surrogacy varies by type and location of the agreement, with these factors affecting the governance of families and the citizenship outcomes of children. To begin, transnational surrogacy is articulated as a cross-border social agreement that requires the use of assisted reproductive technologies (Berkout 2008; Lozanski 2015; Savananan 2015; Yang 2015). Regardless of the destination country, such agreements are classified by the level of formality, level of commodification, and nature of the reproductive material used. With regards to the first, this is dependent on the national-legal status of women birthing for others, with surrogacy labelled as formal or informal. Canada is an apt example of formal surrogacy, whereby the government acknowledges and permits surrogacy based on a legislative framework. Informal surrogacy occurs when a state does not acknowledge or

stringently forbids birthing for another, though the practice continues to occur. China is raised as a relevant example, where strict state prohibition of surrogacy creates an informal economy. Within the market, *dayiun* and *dianqi* are two of the most common methods of having a woman serve as a birth mother (Yang 2015:91).¹²

Scholars define the level of commodification by determining whether an exchange is altruistic or commercial. These two categories are differentiated by whether women receive monetary compensation for the use of her biological processes and her ability to successfully birth a child, without regard for how she came to be a surrogate or how this decision will affect her life. Altruistic surrogacy opposes commercial surrogacy in this regard, with no economic exchange being directly associated with gestation. However, as my critical policy analysis of Canadian surrogacy suggests, this does not mean there is no financial component. Rather, 'altruistic' surrogacy exists on a scale, varying by the degree of economic exchange for other aspects of the surrogacy process. On the global stage, Canadian's ability to access highly unethical commercial surrogacy markets is driven by the neo-settler-colonial and neo-eugenic nature of sexual politics created by the application of biotechnologies in the global South (Cooper 2008). And while these economies offer access to relatively low-cost exchanges, it is often at the expense of disenfranchised women, who are victimized on the basis of gender, race, and socio-economic status within their own countries, and seek out surrogacy as a means of bettering their circumstances.

Moreover, although clinics provide employment, this is a highly precarious form of

¹² According to Yang, the term *Dayiun* translates to commercial surrogacy, wherein social families partake in an illegal and informal contractual economic exchange with the intent of securing a child. *Dianqi*, by comparison, refers to the practice of wife rental, which is legal and serves as a cover for surrogacy. Emerging in the Han Dynasty, *dianqi* is the practice of impoverished men renting out their wives. As a homosocial arrangement, *dianqi* allows for impoverished men to earn profit, with the purchaser using the rented wife as a prostitute or as a means of gestating a child (preferably a son) (2015:91).

feminized labour, with the contractual nature of this work leaving women to find additional employment after the terms of their contract have been met. Focusing on the Indian context, Sheela Saravanan (2015) speaks to the reality of women choosing to enter into commercial surrogacy arrangements.¹³ As the author explains, many of these individuals are often from rural areas, situated towards the bottom of India's caste system, with little to no possibility of securing the necessities of life: adequate food and shelter or access to health and education services, as examples (Saravanan 2015:305). Systemically coerced into commercial surrogacy and drawn to the relatively large financial gain, the exploitative nature of this economy furthers the subjugation of Indian women.¹⁴ For Saravanan, many of the additional issues associated with commercial surrogacy stem from contractual obligations that surrogates are required to fulfill (2015:301). In these documents, clinic owners and employees fail to account for the systemic concerns propelling women into surrogacy. These agreements may involve occupying hostel-like environments for the entirety of the pregnancy with little or no opportunity to leave; undergoing mandatory medical examinations and procedures, including abortion; as well as having pay reduced or denied for failing to meet the terms of the pregnancy. Facilitated by political logics like neo-imperialism, the practice I describe is one that treats surrogate's "...bodies...as playing a role structurally similar to that of the land and natural resources as they were disposed of in the period of...European territorial colonialism" (Vora 2015:75). In this colonial model, gestating women (often from the global South), have their reproductive processes and desires objectified and evacuated for Canadian

¹³ Recent changes to Indian legislation has closed the surrogacy market to non-Indian citizens. Nevertheless, India's transnational surrogacy market was, and continues to be, one of the most notorious, unethical, and well-researched case studies. As such, it serves as a relevant and analytically rich example.

¹⁴ In the case of India, the estimated wage of a surrogate ranges from 6,000 to 10,000 USD (Jaiswal 2012; Kumar et al. 2013). This is comparable to 2018 statistics released by the Asian Development Bank, which reports that an estimated 21.2% of India's population is still categorized as living below the 1.90 USD population purchasing parity. Moreover, of those living on less than 1.90 USD a day, women are still over-represented, making up 15.2% of this group. This compares to 12.9% of men.

families, whose citizenship ties them to Canada's legacy of white settler-colonialism and the ability to prioritize their own procreative wishes.

Beyond Surrogacy as a Neoliberal Form of Procreation

Drawing on queer theory and Marxism's critical orientation, Rosemary Hennessy (2000) provides analysis of the erosion of desire within the context of global capitalism. For Hennessy,

...capital expansion has eroded traditional social relations. The drive to accumulate has drawn more and more into waged work, more thoroughly re-routed the state's provision for human needs into the profit-making sector, increased the transnational migration of people and capital, extended commodity marketing further than ever into the body and the unconscious, and heightened the manipulation of human needs and desires. (2000:4)

This quote is powerful, as it challenges conventional notions of surrogacy as a neoliberalized form of reproduction. As Foucault postulates, depoliticization is a mythos associated with a neoliberal political economy, allowing governance to become invisible, with emphasis put on individual desire and responsibility (Snellart et al. 2010). And yet, such pervasive narratives of transnational surrogacy as a neoliberalized form of reproduction continue to exist. The work of Gillian Hewston (2014) best reflects this tendency towards neoliberalism. For Hewston, transnational surrogacy is a practice that occurs between three actors, all of who are able to act on their desires within the global market without perceived interference, particularly from the state. Echoing sentiments similar to the participants of Anna Arvidsson et al.'s (2015) study, Hewston suggests that the intending parent(s) and surrogates can best be regarded as "competitive, productive, atomistic, economic agents interacting with the free markets...[that] do not expect themselves to be supported by the state" (2014:490). Both parties are "self-actualizing", "risk managing" entrepreneurs using their choices to their advantage (*ibid*:491). For the women who act as surrogates, particularly commercial surrogates, this is demonstrated by their ability to escape their degraded socio-economic conditions by allowing the drive for profit to colonize their bodies, manipulating

whatever personal desires that could be present to be overtaken by a system of oppression that does not satisfy human needs (Hennessy 2000). For social families, participating in reproductive social arrangements allows them to address issues like infertility and their unaided inability to generate human capital through the creation of a child (Hewston 2014:491). Privately-owned clinics, much like surrogates, clearly benefit from the ability to generate profit.

In the instances where surrogates and clinics offer altruistic services, perceived benefits are less clear. Scholars Schurr and Militz (2018), Toledano and Zeiler (2017), and Yang (2015), suggest there is an affective component to altruistic surrogacy, with some surrogates and clinics expressing a sense of emotional fulfillment from the process. This satisfaction is derived from providing parents with the family they desire. However, as a form of feminized labour, this positive affect seems short-sighted, ignoring the long debate about socially reproductive labour being undervalued and more importantly, whether socially-reproductive labour can be fairly compensated in a capitally-driven political economy because of the inequalities that capitalism relies upon to further itself (Bhattacharya 2017; Fraser 2017). Research on the experience of surrogate mothers in the transnational surrogacy market reflect the affective complexities of serving as a birth mother. For example, a Chinese surrogate mother from Yang's studies exclaims "I'd advise other women: no matter how hard life is, you shouldn't become a surrogate. When your innermost being is violated, you don't have any sense of dignity. The pain, loss, and humiliation involved...go beyond words" (2015:102). In contrast, a participant from Pande's study states "I don't think it will be hard giving [the baby] away. [...] [The intending father] is investing so much money in her" (2009:386).

It is not my intention to explore the reproductive subjectivities of surrogate mothers. However, I include these quotes to demonstrate that surrogacy is certainly not a mutually beneficial

practice. Rather, it is complex, with a multiplicity of factors contributing to surrogates' understanding of the labour they perform. The Indian surrogate from Pande's (2009) study emphasizes the economic component of surrogacy and the role that the commodification of surrogacy plays in disassociating herself from the surrogacy process. By comparison, the Chinese surrogate from Yang's (2015) study expresses extreme dissatisfaction with serving as a surrogate, regardless of the nature of the arrangement.

The Primary Actors

Addressing global capitalism's neoliberal tendency to erode traditional social relations, transnational surrogacy contends normative notions of parentage associated with the Western family and its role in reproducing the Canadian nation-state. Specifically, it does so by disrupting the assumptions about geo-political belonging and biology embedded in Canadian reproductive citizenship. Transnational surrogacy does this by creating a scenario in which Canadian families are not only choosing to procreate beyond national borders, but are doing so in a manner that constructs counter-understandings of parentage to those relied upon by the Canadian state, depending on the type of arrangement used. Typically, the nature of reproductive material used allows for surrogacy to be classified as traditional or gestational. In traditional arrangements, the surrogate is the birth and biological mother of a child, as it is her ovum that is fertilized. Comparatively, as an increasingly popular choice on the transnational market, gestational surrogacy only requires that a woman serve as the host, with both the egg and sperm coming from an external source. If the intending parents are fertile and biologically identifiable as a man and woman, then the pair may contribute the required material themselves. Yet, this scenario is not always possible, and there are instances where the male and female reproductive material needed for procreation is provided by third-party donors. In an extreme case of gestational surrogacy, then,

a child will have two social parents, who should become legal guardians of the child; a surrogate, who acts as the birth mother; and two donors, one male and one female, who are the biological parents.

For the Canadian state, a scenario such as the one I describe above creates a sense of insecurity about the legitimacy of the 'Canadianness' embodied by the child born through transnational surrogacy and its entitlement to birthright citizenship and citizenship by descent under Canadian law (Carsley 2016:527-529). Procreation within the national territory is embedded in a system that institutionalizes reproductive processes (citizenship, conjugal relationships, surrogacy). State-affiliated practices and statuses like citizenship are not inherently procreative. However, by associating reproduction with citizenship, the state is able to situate the family as a micro-nation where new citizens, who will develop a political, social, and economic attachment to the Canadian nation, are born and immediately integrated into the processes used to further the Canadian state's hegemony. As such, this anxiety can be framed as originating from the Canadian state's need to develop and enforce a similar method of mitigating the risk beyond the national jurisdiction. Lorna Weir (2006) provides a helpful framework for understanding the risks that each family poses to the authority of the Canadian state in their decision to go abroad and the various methods used to diminish potential issues. In *Pregnancy, Risk, and Biopolitics: On the Threshold of the Living Subject*, Weir (2006:1-3) uses the perinatal threshold to conceptualize the moment during the gestation process where a potential subject becomes alive, gaining social and cultural significance. Tracing a genealogy, Weir suggests that normative understandings of the living subject have historically relied on the natal threshold, with a person coming into full social being after being birthed. Construction of the perinatal threshold challenges original conceptions of the living subject by attempting to move the threshold into a birth mother's reproductive organs. The

consequence of doing so is an interruption to the process of becoming and an increase in the amount of risks facing an unborn subject (*ibid*). Applying this logic, if citizenship is framed as the moment when a state acknowledges a Canadian family as being socially and culturally acceptable, then what happens through the transnational surrogacy is the multiplication and extension of the threshold associated with citizenship, therefore increasing the level of risk associated with this process.

MANAGING TRANSNATIONAL FAMILIES USING A GLOBALIZING REGIME OF GOVERNMENT

The Potential for Stateless Children in Transnational Surrogacy

With familial and national reproduction having been historically bound by citizenship as a political, social, and legal-juridical status, citizenship remains a method for reducing the issues associated with Canadians fulfilling their reproductive subjectivities. For Canadian parents using transnational surrogacy, the use of citizenship to manage families has the potential to manifest as parents being denied the documentation, such as birth certificates by clinic employees, or travel visas by consular officials that are necessary for children born through transnational surrogacy to be granted citizenship by state actors. It is essential to note that in Canadian families' use of transnational surrogacy, it is not just the Canadian government denying membership who have ultimate authority in providing or denying permanent residence and citizenship. Many actors play a contributing role in the states involved in a specific agreement: the intending parent(s); the surrogate; and third-party donors of an ovum or sperm, where this is relevant. Charles Kindregan and Danielle White (2013) postulate that the nexus formed by the various pieces of citizenship legislation across states, as well as the other policies, actors and technologies associated with these

frameworks, can lead to children born through transnational surrogacy being left *de jure* stateless.¹⁵ As national membership in Westernized societies is associated with fulfillment of responsibility and access to one's rights, the possibility of being left without citizenship is devastating. This is especially true for children whose high level of dependency and vulnerability makes them unlikely to withstand the hardship associated with citizenship deprivation (Kindregan and White 2013).

State Techniques for Addressing Interruptions to the Geo-political and Biological Disruptions of Parentage

With the transnational Canadian family being constructed as a risk through its disruption of the geo-political and biological assumptions embedded in parentage through the Canadian state's notions of reproductive citizenship, revealing the full spectrum of biopolitical management techniques requires understanding how challenges to traditional notions of Canadian parentage are addressed. With regards to the geo-political aspect of citizenship, there are discursive elements of the Canadian *Citizenship Act* intended to regulate transnational procreation. As I introduced in the previous chapter, a stipulation to section 3(1)(b) of Canada's *Citizenship Act* restricts the allocation of citizenship to the first generation born beyond Canada's borders (Government of Canada 2019^a).¹⁶ This applies to transnational surrogacy and it is during those scenarios where a child conceived through this method does not have at least one parent who is not the first generation born abroad that a Canadian family can be constructed as a risk to Canada's hegemony as a neo-settler-colony.

¹⁵ Jacqueline Bhabha (2011) explains *de jure* statelessness as the absence of a documented nationality and therefore denial of any rights, services, or responsibilities usually associated with national membership.

¹⁶ As an incredibly contentious political issue, Canadian citizenship legislation is known to be amended in the interest of the political party that is elected during a period. Although such changes have the potential to affect my analysis, across most of the 2000's, the laws affecting the governance of Canadian families using transnational surrogacy were implemented under the Harper government and continue to be used. As such, although I am referencing the current version of documents, the laws I mention can be found throughout previous iterations and therefore apply to a generalized discussion of the governance of transnational Canadian families.

The *Citizenship Act* does not just limit citizenship to transnational families based on connection to the national territory under section 3(1)(b). Rather, this piece of legislation also addresses disruption to the state's nationally-based neoconservative, neo-eugenic, and neoliberal assumptions of biological parentage that are created by travelling transnationally for surrogacy. The Canadian state also does this by enforcing a system of governmentality in which children must be related to a Canadian parent to qualify for citizenship by descent (Government of Canada 2019^a). In the Canadian context, using genetic relationships as a metric for membership emerged in the 1990s, more frequently in relation to immigration than citizenship, as a means of strengthening family reunification (Bragg and Wong 2015; Taitz et al. 2002; Weiss 2011). Family reunification involves allowing family members who are abroad to join relatives who have been residing in Canada for an extended period, as would be the case for the family members of permanent residents or the children of Canadian parents who use transnational surrogacy. For the application of citizenship or immigration legislation, genetic testing in Canada was designed to serve as a final resort, applied only in instances where governmental officials were uncertain of the legitimacy of a familial relationship (Bragg and Wong 2015; Taitz et al. 2002).

In the current iteration of the *Act*, there is no section that explicitly references genetic parentage. Instead, in an amendment titled "Who is a parent for citizenship purposes where assisted human reproduction (AHR), including surrogacy arrangements, are involved" the Government of Canada specifies what it means by parent. This revision states that "the existence of a genetic parent - someone whose child contains their genetic information - is what current citizenship policy relies on to determine who can receive citizenship by descent" (2014). It is notable that a biological link does not necessarily have to equate to an established genetic relationship between social parents and their child(ren) (Government of Canada 2019^a; Harder 2015:119-120). Recalling that

transnational gestational surrogacy allows for the intending parent(s) to use the sperm or ovum of third-party donors, the state's requirement of a biological connection to a Canadian citizen allows for citizenship by descent to be granted to those children whose legal guardians can establish that any one of the up to five parents present in an agreement are members of the nation.

The Function of Biotechnologies

Expanding possibilities for citizenship by descent through variation in biological parentage is simultaneously complicated by the risk of foreignness. Once again, referring to the complexity of gestational surrogacy agreement, this unfamiliarity to Canadian nation-state authorities manifests in two ways. Foremost, this occurs because of the possibility that a surrogate or third-party donors embody the political membership of a country other than Canada. By extension, this foreignness is a result of the fact that although the surrogacy process requires assisted reproductive technologies, it also relies on the same gestational process that allows for traditional notions of reproduction to be established through parentage. This approach relies on the application of biotechnologies in such a way that makes highly gendered, racialized, and classed bodies available on the global market (Cooper 2008; Vora 2015). There is the possibility that assisted reproductive technologies, like in-vitro fertilization, allow for the undesirability of certain bodies and biological processes to be mitigated for the Canadian state. Negotiation of such risk occurs through an objectifying form of biological detachment and mediation. In this, reproductive material or capacities are stripped of their socio-political meaning and identity, incorporated into surrogacy for the sole purpose of serving a biological function (Schurr and Militz 2018:1632-1634). Ideally, the ovum and/or sperm made available by assisted reproductive technologies are applied in a surrogacy arrangement where they are identifiable as Canadian or contributing to a genetic combination that contains Canadian genes long before a child will be granted formal citizenship.

The successful application of biotechnologies as a tool of governmentality, of course, leads to the reproduction of the Canadian nation-state's hegemony through the production of a child that fulfills the Canadian state's requirement for a child that adequately embodies 'Canadianness'. Clinic owners and employees are complicit in this process. As the providers of surrogacy services, these actors are meant to ensure that no errors occur in the use of biotechnologies and that the intending Canadian parent(s) have documented legal guardianship over the gestated child, with a birth certificate as one form of proof. The issue becomes that biotechnologies are not always applied correctly. As two instances, on August 20th, 2011, the Toronto Star published an article titled "Couple fights federal surrogacy policy to bring their boy back to Canada". Detailed was the story of a Canadian couple who had travelled to India and hired a surrogate to deliver them a set of twins that would be their biological offspring. After the birth of their children, the pair applied for the appropriate travel documents at the Canadian High Commission where it was revealed that neither of the twins were related to the couple; having their visas expire and with no resolution between the pair and the Commission, the couple was forced to leave India. The fate of the twins remains unknown (Toronto Star 2011). Similar scenarios have been documented, such was the case for a Canadian couple who had an Indian surrogate gestate two children, only to find out that a genetic relationship was shared with one of the children. The non-biologically related child was denied entry into Canada (Smerdon 2012:353). As the denial of citizenship and entry to the nation suggests, medical mishaps require that further gatekeeping methods be added to the globalizing regime of government. Canadian immigration officials stationed internationally can request a genetic test to confirm eligibility for citizenship and migration to Canada, even in the instances where proper documentation is provided by the social parent(s) (Harder 2015:116-117). If this practice establishes that no genetic relationship is present between the Canadian parent and

child(ren), then a family's request to migrate to Canada is denied, as is the ability to immediately secure citizenship for any offspring.

In the Canadian context, non-biological parentage in surrogacy is also matter of the bilingual nature of federal level citizenship law. In the French version of the *Citizenship Act* (Government of Canada^a) as well as the operational bulletin that defines genetic parentage (Government of Canada 2014), the phrases used to define parentage are "née d'un père" and "née d'une mere". Officials interpret these conditions for membership as the father who contributed to a child's genetics and a mother who gestated a child and shares a biological relationship with an infant (Harder 2015:118-119). The French legislation, then, carries clear gendered implications on how genetic parentage is defined by Canada's federal government. Canadian men, so long as they contribute their sperm to a surrogacy agreement, can successfully claim parentage. Women, however, are in a far more precarious position in the use of transnational surrogacy as even when it is their ovum that is used during the surrogacy process, the French texts insistence on a mother carrying and birthing their child eliminates a woman's right to parentage (*ibid*).

Although there are concerns about the differences between the English and French text and how these documents allow parentage to be defined, with the Canadian state's insistence on a biological connection between parent and child as racialized and indicative of contradictions in Canada's liberal model of citizenship, reflecting Canada's beginnings as a white settler-colony. Seeking to answer what state emphasis on a genetic understanding of parentage does as the basis of national belonging, Harder (2015) finds that this discourse

...invokes a racial logic at the heart of birthright citizenship. [...] Of course, an insistence on genetic relationship to a Canadian as the basis of derivative citizenship does not create an ethnically or racially homogenous population, but...[it] does not signal a certain cleaving into identity, that can, at least according to Canadian officials, be known in the blood. (120)

Such insidious instances, as a brief history of Canadian eugenics reveals, are well known to state actors and institutions who sought to eliminate social ills by depoliticizing the identity of immigrants, Indigenous populations, racialized minorities, or disabled individuals and rooting them in biology as a means of achieving purity of the nation through physical and cultural genocide (McLaren 1990:37).

The Canadian *Citizenship Act* enforces state propensity towards Canada's hegemony through the infringement on a Canadian family's ability to migrate back to the country after completing a transnational surrogacy arrangement. Within a global neoliberal political economy, the ability to enter and exist a national border is one of the most important rights associated with legal-judicial aspect of Canadians' citizenship (Simon 2013:515). Within transnational surrogacy, this privilege is restricted for those Canadians who fail to establish a genetic relationship with their children and ultimately the nation, presenting their family as illegitimate and a risk to state preferences for biological family in its reunification practices (Simon 2013). As Canadian citizenship is an individual status, the social parent(s) retain the right to re-enter the national territory. However, as a family, this opportunity is stripped by governmental actors enforcing state legislation such as the *Citizenship Act*, leaving parents with the options of abandoning their child(ren) in another country or remaining with them for an undetermined amount of time.

The Lateral Arrangement of Citizenship Policies in Transnational Surrogacy

The transnational mobility of Canadian families raises concerns about the application of assisted reproductive technologies and their effect on the citizenship legislation of multiple countries. In traditional surrogacy, this will include Canada and the surrogate's country of membership. Gestational surrogacy, by comparison, can become an issue for the Canadian state, and depending on the number of actors participating in the arrangement, the state of the surrogate

mother as well as the state(s) of the third-party donor(s), unless said individual(s) are Canadian (Kindregan and White 2013; Carsley 2016). Kenya and India are two relevant examples of countries that deny citizenship to children born through transnational surrogacy. Kenya, as one of the more recent destinations for surrogacy, provides an enriched understanding of how transnational surrogacy currently functions. India, although having banned foreign parents' access to the surrogacy market, is worthwhile for two reasons. First, this surrogacy market is infamous for its unethical nature and has been given a large amount of attention by researchers (Pande 2011; Saravanan 2015; Vora 2015). Moreover, although the national market is now regulated, surrogacy clinics have found ambiguities in the legal system, allowing them to export their clinics or surrogates, to sell reproductive material to intending parents or to provide consultations on which countries permit transnational surrogacy (Bindel 2016; Rudrappa 2017). In Kenya, although surrogacy is informal, the government restricts the provision of citizenship to those children born for another family. As Kenya Surrogacy Agency (2018) warns, potential clients may parents might come across complications while applying for parentage, with the child not having any legal parents in Kenya and not being eligible for citizenship. Similarly, the Government of India regularly demands a genetic relationship between an Indian citizen and a child for citizenship to occur. However, this principle does not apply to transnational surrogacy, whereby children born of Indian surrogate mothers do not have access to Indian citizenship (Government of India n.d.).

Rectifying Statelessness through Adoption

Despite a lack of cooperation between states and the devastating possibility of stateless children, bio-political governance of Canadian families allows for citizenship deprivation to be rectified. As a country with fairly liberal adoption and immigration policies, Canadian parents who fail to establish a legal-genetic relationship with their child(ren) are able to adopt or sponsor

infants, setting them on the path to citizenship (Government of Canada 2019^a). Canadian inter-country adoption policies are found in section 5(1) of the *Citizenship Act*. Sponsorship leading to adoption, by comparison, is solely governed through numerous sections of the *Immigration and Refugee Protection Act*. These include part 5, division 5, relating to humanitarian and compassionate considerations or part 7, relating to the family class. In either case, the avenue pursued is dependent on the citizenship status of the intending parent(s) within Canada. To begin, inter-country adoption through the *Citizenship Act* is reserved for situations where at least one social parent has full citizenship, who is not the first generation born beyond the national territory, and who has not established permanent residency in a country other than Canada (Government of Canada 2017). In those situations where these citizenship requirements are not met or the social parent(s) are permanent residents in Canada, the Government of Canada (2017) states that the adopted child(ren) must become a citizen through the immigration process.

This organization does not just situate full citizens above those working towards formal membership, it also distinguishes between citizens on the basis of a family's generational tie to the Canadian national jurisdiction. Section 3(3) "Not applicable - after first generation" of the *Citizenship Act* limits the allocation of membership to one generation born in another country (Government of Canada 2019^a). From the perspective of intersectional governmentality, this discursive element of the *Act* reinforces neoconservative and ethno-nationalist political ideologies tied to family. From a top-down perspective, families where children are the second generation born abroad become constructed as a threat. This threat is derived from the expansion of a family's geo-political relationship to Canada, with the choice to procreate transnationally delegitimizing their 'Canadianness'. By creating a system in which some of the families formed through transnational surrogacy must establish their child(ren) in Canada through the *Immigration and*

Refugee Protection Act, the Canadian state is able to ensure that these families are 'legitimate', insofar that they align with the state's institutionalized ideal of family.

Carsley (2016) elaborates upon the precarity of using biology as a metric for bio-politically governing transnational Canadian families through citizenship and immigration. She does so by using the federal-level case law of *Canada v. Kandola* (Citizenship and Immigration Canada 2014) as primary evidence.¹⁷ Akin to Harder (2015) and Gaucher (2018), this requirement relies on a racialization process. Enforcing the Eurocentric preferences of the Canadian state, governmental officials disproportionately target Canadian immigrant families, especially amongst those whose physiological features or choice of destination for transnational surrogacy defies the Eurocentric preferences of the Canadian state. Having only requested genetic testing from families located in Asia and Africa, including those from India, Morocco, and the Philippines, Carsley argues that, "CIC's DNA policy undoubtedly enables some children - who do not have a genetic link to their parents - to obtain citizenship by descent. If the child was born in North America, Australia, or parts of Europe....it [remains] unlikely that CIC will request a DNA sample" (2016:583). Once again, this racialized practice is informed by a national security discourse, in which the state constructs migrant families who choose to use transnational surrogacy as a threat due to the potential for fraudulent applicants as well as human trafficking cases within the various pathways to membership.

¹⁷ According to Carsley, *Immigration v. Kandola* is the case of

...a Canadian parent whose daughter was denied a citizenship certificate, challenging CIC's interpretation of paragraph 3(1)(b) of the Citizenship Act. Mr. Kandola, a Canadian citizen, and Mrs. Kandola, a citizen of India, had used in vitro fertilization to build their family while they were living in India. Unable to conceive using their own eggs and sperm, they elected to use anonymously donated embryos and Mrs. Kandola gave birth to a daughter, Nanakmeet. The Kandolas were forthcoming about their use of assisted reproductive technologies and CIC found that Nanakmeet was not a Canadian citizen following DNA testing. While Mr. Kandola successfully applied for judicial review, the Federal Court of Appeal reversed and upheld the Minister's prior decision to refuse to issue a citizenship certificate. (2016: 533)

In the instances where families formed through transnational surrogacy are unable to abide by the Canadian state's normative preference for legal-biological parentage, the *Immigration and Refugee Protection Act* provides Canadian families with one last option for re-establishing themselves within the national territory. Applicants can request temporary permanent residency, which after being granted, a subsequent request for "humanitarian and compassionate permanent residence" must be made (Carsley 2016:542). Finally, after completing both phases, intending Canadian parents are able to access citizenship for their child(ren) under subsection 5(2) of the *Citizenship Act*, which allows citizenship to be obtained through naturalization (Government of Canada 2019^a). In incredibly rare instances, a similar process can take place through the *Citizenship Act*, in which subsection 5(4) provides the Minister of Citizenship and Immigration Canada with the discretionary power to grant citizenship to individuals in exceptional circumstances where they face undue hardships (Government of Canada 2014). Notably, to date there have been no cases of Canadian parents using transnational surrogacy where a child was granted citizenship under subsection 5(4).

There are two aspects of this final route to citizenship that I find striking. Foremost, despite the use of a humanitarian discourse, there seems to be a more sinister aspect to this management technique. As David Callahan explains, creating policies grounded in altruistic governance positions the Canadian state "...as having an exceptional propensity for compassion..." and "...as an entity with the moral and institutional authority to arbitrate upon..." issues, like stateless children, that other governments are unwilling to address (2014:113-114). Certainly, the Canadian state's willingness to provide some of the children born through transnational surrogacy with citizenship allows a limited number of applicants to acquire membership for their child(ren). Translating these discursive qualities into the interventionist field, the state's benevolent choices

take on potentially malevolent qualities. Investigating the Canadian government's treatment of queer refugees, Gaucher (2018) draws similar conclusions about Canada's humanitarian policies within the *Immigration and Refugee Protection Act*. This manifests as the denial of LGBTQ2A+ refugees because of their inability to 'legitimate' their sexuality to state actors through the practicing of queer relationships while residing in Canada. By extension, the Canadian state's humanitarian rhetoric exemplifies the Foucauldian notion that within the current political economy, providing citizens with high levels of agency requires moments of exceptional state action to compensate for when Canadians' choices deviate too far from state desired outcomes (Snellart et al. 2008). Of course, this corrective practice can provide Canadian families with the opportunity to remain intact and that is, in the face of statelessness, an opportunity that cannot be understated. However, I assert that this authority is ultimately repressive and malevolent, putting restrictions on which families are worthy of access to the nation and which ones are torn apart by exclusionary state decisions.

CONCLUSION

In a transnational context, the bio-political governance of Canadian families formed through surrogacy relies largely on the *Citizenship Act*, the *Assisted Human Reproduction Act*, biotechnologies, and the employees of Canadian fertility clinics who are responsible for applying assisted reproductive technologies. This system of governance is designed to avoid some of the risks presented by 'illegitimate' Canadians. The globalizing regime of government used to manage the Canadian families of transnational surrogacy includes the states of the surrogate mother and any third-party donors, including their policies related to reproductive technologies and citizenship; biotechnologies, as well as the surrogacy clinics affiliated with their application; Canadian immigration officers, who are responsible for ensuring that infants have a genetic link

to the nation and providing travel documents that are necessary for families to travel back to Canada; as well as the Canadian *Immigration and Refugee Protection Act*. With transnational surrogacy disrupting the geo-political and biological assumptions embedded in state understandings of parentage, each step in this regime serves as a gatekeeping method, with most families being acknowledged as members of the nation through the state's ability to institutionalize familial procreation into processes governing immigration to Canada and Canadian citizenship. Transnational families have become constructed as a risk to the Canadian state's ability to perpetuate its hegemony through systems like citizenship and immigration because as these families work through these processes they challenge the normative assumptions embedded in them. Given that within transnational surrogacy there is the potential to be left stateless, it is paramount that Canadian families do not become validated as threats by the Canadian state.

Several ideologies inform the Canadian state's globalizing regime of government, many of which are an extension of the belief system underlying the governance of surrogacy and assisted reproductive technologies within the national territory. These include neo-conservatism, neo-eugenics, and neoliberalism as the dominant ideologies. In the transnational context, neo-settler-colonialism becomes a relevant political ideology, as it provides the logics necessary for the surrogate's body, often located in the global South, to be made available to Canadian parents who undermine the autonomy of the surrogate and the negotiation of their own reproductive desires. Avoiding an oversimplification of this issue, the undermining of reproductive desires is a part of a global chain of reproductive oppression. In Canadian families' use of transnational surrogacy, this system begins within Canada. Despite the state's insistence on a socially progressive surrogacy market, what I uncover is a practice that excludes families, mutually constituted as undesirable through relations of gender, sexuality, ability, and/or race. As such, these parents are catalyzed

into the transnational market, where they can access less regulated and often more inexpensive markets. It is usually during their migration back to Canada that further intersections like immigrant status are revealed as countering the Canadian state's idealized notion of family in its attempt to reproduce.

CHAPTER 4: UNDERSTANDING REPRODUCTIVE SUBJECTIVITIES USING JOSEPH TITO'S TRANSNATIONAL SURROGACY EXPERIENCE

In this chapter, focusing on a case study of one commissioning parent's journey to parenthood, I investigate the relationship between the Canadian state's system of biopolitical governance and the reproductive subjectivities of Canadian parents that use transnational surrogacy. Situated as potential actors of governmentality throughout the previous chapter, the relationship between the Canadian state and transnational Canadian families exists in a tension between how state expectations and personal ambitions are negotiated. For the Canadian parents of transnational surrogacy, the negotiation of personal desires (for family) and meeting state expectations for (Canadian family reproduction) does not manifest as successfully fulfilling one anticipated outcome while failing to satisfy the other. Rather, the process I describe throughout this chapter is a constant mediation. To discuss the complexities of negotiating citizenship for children born abroad through surrogacy, I examine in detail the experiences of Joseph Tito, as is documented in detail by Tito himself. Tito is a Canadian parent and social media influencer¹⁸ who caught my attention in December 2018. Headlines reading "Citizenship law leaves Toronto man's newborn twins stranded in Kenya" (Bergeron-Oliver 2018) and "'I just want to be home': Canadian surrogate dad brings home from Kenya" (Kalvapalle 2019) began appearing, explaining that after deciding to use a surrogacy agreement in Kenya, Tito's daughters Stella and Mia were left stateless. Although Tito is only one of many Canadians to have issues with transnational surrogacy, his experience was timely and well documented across several news outlets and by Tito himself; an

¹⁸ According to the Cambridge Dictionary (2019), a social media influencer is "someone who affects or changes the way that other people behave.... through their use of social media". This is also a colloquial term for an individual with a strong social media presence.

ideal story for illuminating the subjectivity of Canadian-commissioning parents as well as obstacles such families face.

Throughout this chapter, I narrate Tito's experiences, analyzing how they align with or challenge the globalizing regime of government used to manage Canadian families formed through transnational surrogacy. I have divided Tito's experience into three sections: pre-surrogacy, surrogacy, and post-surrogacy. Each component elaborates upon key moments from Tito's journey, allowing for an enriched understanding of how Tito's choices at various stages of the transnational surrogacy process relate to the system of governmentality that I describe throughout the previous two chapters. By focusing on Tito's perspective, I demonstrate that Canadian parents who choose to use transnational surrogacy *do* try to balance or align their own reproductive desires with the expectations of the Canadian state, attempting to fulfill their role as a securitized actor of governmentality. This is a trend that is identifiable at various stages of the surrogacy process, indicating that parents play a larger role in the same regime used to manage them. In fact, it is only because the governance of Canadian society creates barriers for non-normative families to participate in biological reproduction, with Tito's discursive choices emphasizing the high-cost of Canadian surrogacy, that such individuals choose procreative options that allow them to be constructed as a threat to the nation. This is not to portray Canadian parents and their children as victims. Parents like Tito exercise agency and choice in selecting to go abroad despite being aware of the Canadian immigration and citizenship laws that may affect their child(ren)'s membership; rules like the first-generation exception under paragraph 3(3) of the *Citizenship Act*. And yet, the sinister nature of the biopolitical governance involves the Canadian state in harnessing its sovereign authority to depoliticize and erase the complexities of parents' experiences. This includes the ability to overlook the failure of governmental actors to enforce state rules before problems

occur for parents. In doing so, the Canadian state transfers responsibility for issues associated with governance onto parents, who are left to identify and pursue state-legitimized solutions within the globalizing regime of government.

TITO'S JOURNEY TO SURROGACY

Tito's narration of his decision to hire a birth mother begins with his own origin story as well as a brief explanation of some major life events. According to the blog post, "Is Surrogacy Legal", Tito is a dual citizen of Canada and Italy. This status is the result of his parents' national membership, with his mother as a Canadian and his father as an Italian (Tito 2018). At the time of his birth, his parents lived in Italy, allowing for Tito to be conferred citizenship by descent under Canadian legislation (Government of Canada 2019^a). Moving to Canada at the age of six with his parents, Tito spent a portion of his childhood residing in Canada, beginning to travel internationally at the age of fifteen for a career in modelling (JEO Management 2019).

Tito currently describes himself as an Italian-Canadian; a 1.5 generation immigrant¹⁹; single; gay; and working as a social media influencer, as well as a film and television producer (Tito 2018). Tito's early cosmopolitan lifestyle translated into his adulthood. Before deciding to pursue fatherhood, he spent a part of his adult life attending Italian post-secondary institutions. Later Tito worked in film and television throughout the Middle East, particularly on the Island of Bahrain (Tito 2018). This portion of Tito's livelihood involved managing a production company, selling shows to broadcasters like Netflix and MTV, while also opening a performing arts school and travelling the world with his then partner (JEO Management 2019; Tito 2018). As Tito outlines in his "Why Surrogacy" post of *thedaddiaries.com*, the issue with this lifestyle is that it did not

¹⁹ 1.5 generation is a technical term used by Statistics Canada to refer to any foreign-born children of immigrants to Canada (Statistics Canada 2015).

match his "lifelong dream" of having children by the age of 35 (2018). By 37, this desire remained unfulfilled and his now ex-partner did not reciprocate interest in children. Accepting this difference in life paths, Tito began his journey to fatherhood as a single, gay man. This movement towards parenthood is one that Tito described as the "next natural step" (Tito 2018). Settled on starting a family,

I [Tito] researched a lot about the ways of getting a child. I looked a lot into adoption but as a single man living in the Middle East it was close to impossible. Besides the years I would have to wait, the endless papers to fill and sign and the remote possibilities of what kind of child I would get, the thought of adoption quickly left my mind and I started looking into [surrogacy]. I looked at Canada and the US with prices that were way out of my means. \$120 000 to start, I think, is a little steep. (*ibid*)

THE NON-NORMATIVE FAMILY AND IMPLICATIONS FOR GOVERNANCE

The Intersectional Nature of Tito's Identity and Family

The intersectional nature of Tito's identity points to the formation of a non-normative family. However, this is not a totalizing label. Sexuality, relationship status, class, immigrant status, and ethnic identity are amongst the many categorizations that Tito mentions. As a single and homosexual male, Tito's interest in pursuing fatherhood is complicated by his sexuality and partnership, contesting heteronormative expectations of the Canadian state. Within the literature (Carone et al. 2017; Arvidsson et al. 2015; Gezinski et al. 2018; Murphy 2015; Petersen 2018), it is made evident that many queer parents, both single and in relationships, experience a lack of legislative recognition or social support for queer parentage as a driving factor for pursuing global solutions to family formation. However, it is notable that many of these parents first try to form a family in their country of origin before going abroad (Arvidsson et al. 2015; Gezinski et al. 2018; Petersen 2018). It is on this latter point that Tito's sexuality and relationship status manifest differently. Given that Tito was living in the Middle East during his original investigation of

parentage, the geopolitical circumstances are different (Arvidsson et al. 2015; Gezinski et al. 2018; Petersen 2018). During this period, Tito cites his interest in adoption, with this process hindered by his lack of conjugal relationship and country of residence, rather than a lack of legislative or social support for queer parentage (Tito 2018).

Having had adoption fail, Tito's subsequent attempt to use a United States- or Canadian-based surrogacy arrangement once again raises concerns about Tito's sexuality and relationship status. Speaking to the Canadian context as the focus of my thesis, relying upon a Canadian surrogate is regulated by the *Assisted Human Reproduction Act*. The Government of Canada does outline legislative protection for non-normative parents who wish to or use assisted reproductive technologies, declaring that such individuals should not experience prejudice "...on the basis of their sexual orientation or marital status" (2004:2). At the federal level, this stipulation does suggest that sexuality and relationship status are facets of Tito's identity that should not hinder his decision to form a family within the national jurisdiction. I do need to clarify, however, that the discursive elements of the *Assisted Human Reproduction Act* do not translate into interventionist practices. Rather, Canadian fertility clinics enforce normative notions of the Canadian family through the application of assisted reproductive technologies. In doing so, clinics become actors of governmentality, allowing for biological reproduction to be situated and mutually constituted along racialized, gendered, ableist, and classed lines, ostracizing parents that do not meet the state's traditional expectations (Epstein 2017).

Tito's narration does not detail his sexuality and lack of partnership as a barrier in attempting to fulfill his procreative dream within North America. Rather, his expression of restraint is tied to the cost of hiring a surrogate. This is demonstrated most clearly when Tito states, "I looked at Canada and the US with prices that were way out of my means. \$120 000 to start, I think,

is a little steep” (2018). Before discussing Tito's financial status, I need to clarify that the costs Tito cites are likely associated with the United States, where surrogacy is referenced as costing upwards of 100,000 USD, particularly in states like California where a higher demand for birth mothers inflates prices (West Coast Surrogacy Incorporated 2019). The cost of hiring a Canadian surrogate is high, though less so than the United States, with social parents expecting to pay 80,000 to 85,000 CAD (Sensible Surrogacy 2019; Smith 2018). From the position of the Canadian state, the financial burden placed upon parents who wish to use assisted reproductive technologies in Canada is suggestive of a preference for parents of considerable means, with the current social, political, and legal system surrounding Canadian surrogacy supporting this preference through the creation of an expensive market (Lozanski 2015).

The unaffordable nature of surrogacy is not just a concern for Canadian parents like Tito, as parents from Sweden and Denmark express similar views. Despite recurring concern about the cost of hiring a birth mother, Arvidsson and their co-authors (2015:3) as well as Petersen (2018:695) note that many intending parents who end up participating in transnational surrogacy belong to the upper-middle to upper classes of their societies. And while having the ability to pursue procreation abroad, Petersen (2018) clarifies that it is only the most financially well-off individuals whose reproductive mobility is not restricted. With the means to travel anywhere, the economic elite hire a woman in the country of their choosing (often the United States or Canada) where the cost of surrogacy is greater but the ethical implications are less negative than they would be in countries from the global South where surrogacy is cheaper. Tito, in referencing the cost of surrogacy in Canada and the United States portrays himself as amongst the class of parents, who although not socio-economically destitute, remain financially restricted in their reproductive autonomy.

Immigrant status and ethnic identity are the two final factors that Tito discusses in relation to his decision to pursue transnational surrogacy. Although Tito is a Canadian citizen, he is also a citizen of Italy and an immigrant to Canada. Within Canada's white-centered hierarchies of belonging, Tito's tie to Italy through national membership and ethnicity disrupts his alignment with the neo-settler-colonial legacy of British and French sovereignty within multicultural Canadian society (Chen 2016). These hierarchies are born out of Canada's implementation of an immigration policy that recruited an ethnically and racially heterogeneous population and adaptation of multiculturalism as an ethno-nationalist political ideology (Berry 2013; Chen 2016). As an Italian-Canadian and an immigrant, Tito's identity is tied to a long and complex relationship between the Canadian state and Italians. Historically, government officials viewed southern Italians, Canadian citizens and immigrants alike, as Other and unfit for life in Canada (Iacovetta 1991). Largely, this historical prejudice relied on a racialization process that deemed Italians, most of whom were migrated from southern Italy, a part of "darker populations" that suffered from "cultural backwardness" (Iacovetta 1991:52). This view was evermore impactful for those from Southern regions of Italy, who unlike their Northern counterparts, did not have ties to the Germanic customs that Canadian government officials thought were better suited to settler-colonial principles (*ibid*).

The state's views of Italians manifested in various ways throughout history, both within and beyond national borders, particularly during and after the second World War. Beginning in 1940, Prime Minister Mackenzie King labelled more than 30,000 Italian-Canadians as enemy aliens, imprisoning them in internment camps across the country despite being born in Canada as subjects to the Empire (Gordon-Walker et al. 2018:93). Following the end of World War Two and the lifting of the War Measures Act, discrimination towards Italians found influence in Canadian immigration policy. The economic boom during this period of Canadian history was complicated

by labour shortages, with immigration serving as a method of filling these gaps and fostering national development (Iacovetta 1991:51-52). Despite initial reservations about allowing Italians to migrate to Canada, the state finally responded to Canadians' demand for labourers by incorporating Italians into the "bulk order"²⁰ schemes in the latter part of the 1940's. True to its previously held prejudices, the state did attempt to limit the number of Southern, and therefore racialized, candidates brought in from Italy (*ibid*). Ultimately, these bulk order schemes did not turn out in the government's or employers' favour, with many Italian immigrants abandoning their positions in the pursuit of other opportunities. Most commonly, Italian immigrants migrated to major cosmopolitan areas like Toronto and Montreal to perform blue-collar labour. This new employment allowed many Italian families to establish themselves in Canada and sponsor other family members, expanding the number of 'less desirable' Southern Italians. Across generations, this group was able to network and climb the socio-economic ladder.

In achieving this success, Italian-Canadians certainly are not the same subjugated and Othered group that they were; many have attained professional status based on high levels of education and success in business and politics. Nor do they face the same hardships and exclusions in contemporary Canadian society that more racialized immigrants do. Therefore, it is important to not homogenize the immigrant experience in Canada (Epp et al. 2004). As white immigrants, Italian-Canadians have been afforded increasing degrees of privilege in Canadian society across time, embodying some of the Eurocentric preferences of the Canadian state. Nevertheless, to avoid uprooting and depoliticizing Italians' history in Canada, it is important to express this advantage as co-existing with oppression, with multicultural ideology still giving preference to biculturalism

²⁰ Bulk orders refer to a system in which "...immigrants would enter Canada under contract to fill a specific labour demand, but once the contract had been completed, the worker could choose to reside permanently in Canada and seek to fulfill normal citizenship requirements" (Iacovetta 1991: 57).

and bilingualism: Italian-Canadians, particularly those who are darker-skinned, lack ties to the Anglo-Celtic and Francophone culture that dominate the societal and citizenship hierarchy (Berry 2013:665).

As an Italian-Canadian immigrant, Tito straddles this privilege-exclusion divide. Yet, despite the complexities of his own identity, Tito's ability to seriously contemplate transnational surrogacy demonstrates that citizens from Western countries do benefit from winning the birthright lottery (Shachar 2009). Citizens of the global North who have the financial means are afforded power, privilege, and opportunities (i.e. such as having the ability to travel and hire a birth mother, exploiting her reproductive capacities within the global market). My qualification of having the necessary financial means is one worth reiterating, as even though surrogacy in the global South is about half the price of a Canadian arrangement, 40,000 USD is still not feasible for many Canadians attempting to become parents. In previous and coming paragraphs, I assert that this necessitates that the Canadian families of transnational surrogacy occupy higher socio-economic positions.

Systemic and Legal Issues in Negotiating Identity in a Globalizing Regime of Government

Tito's blog, in addition to illuminating the ways that Tito's identity and the family he was trying to create are classifiable as largely non-normative, suggests that the contradictions between state expectations of the Canadian family and the experiences of families formed through transnational surrogacy require a conscious process of understanding how one's own identity and life circumstances affect one's ability to act within the current system structuring various levels of a global neoliberal political economy. In this model, successful population management involves parents limiting their own choices in relation to restrictions already set in place by the state. Tito, for example, demonstrates a clear understanding of how his relationship status and class impacts

his ability to pursue adoption in the Middle East or through a North American-based surrogacy arrangement. The discordance of this method of governance is that, although social parents like Tito may express interest in pursuing methods of procreation that align with state notions of reproductive citizenship, systemic and legal limitations perpetuated by the state or broader societal expectations within their country of membership can propel them into scenarios where it is easier to stray from state expectations. For Tito, this manifests as interest in using a nationally-based surrogacy agreement, with the costs of such services becoming a barrier to access.

Reinforcement of State Ideologies Informing the Canadian Family

Tito's decisions leading up to surrogacy show how Canadians' reproductive ambitions and identities, even when not perfectly aligning with normative notions of familial procreation in Canada, can be taken up in a manner which reinforces the political ideologies associated with traditional conceptions of parentage. Once again, it is important to note that understandings of parents' ability to abide by systems of governmentality cannot be divided into a duality of success or failure. Rather, the concern becomes: how much and in what ways do parents enforce or contest state and/or societal expectations? To this point, I have argued that such ideology includes neo-settler-colonialism, neo-eugenics, neo-conservatism, multiculturalism, and neoliberalism. Tito's decisions leading up to surrogacy reinforce neo-conservative and neo-eugenic principles, with his use of the term "natural" to describe his decision to start a family supporting both beliefs. In fact, on *thedaddiaries.com*, use of the term "natural" appears in seven passages, accounting for 18 percent of the total entries (Tito 2018).

Within the Canadian context, the naturalness of family is simultaneously constructed using neo-conservative and neo-eugenic ideology (Farney and Rayside 2013). Genetic parentage is foundational to socio-political preferences for heteronormativity (Higgins and Fink 2008; Hill-

Collins 1993). This is especially true from a top-down perspective, whereby the Canadian state can grant citizenship by descent to the biological children of Canadian parents. Tito's opting for a method that allowed him to successfully form a genetic connection with his children signals to the incorporation of the combination of neo-conservatism and neo-eugenics described above. I am struck by Tito's decision to pursue biological parentage while questioning the quality of children that are produced through non-biological and social methods of family formation. One of Tito's more obvious degrading of social families appears in his statement "I looked a lot into adoption but...the years I would have to wait, the endless papers to fill and sign and the remote possibilities of the child I would get, the thought of adoption quickly left my mind..." (2018). Even without explicitly referencing biological parentage, this account alone speaks to the overwhelming normativity of biological parentage and, in the face of several options, the desirability of being able to form a genetic connection with one's own offspring, as neo-conservative ideology laid as foundational to the Westernized family. To an even greater extent, the allure of forming a genetic connection between parent and child is revealed in Tito's discussion of how the procreative process works in surrogacy. Successful in forming a biological relationship between himself and his twin daughters, Tito explains that

the eggs I choose are flown to Kenya, where my semen is frozen. Once the eggs arrive, [they are] then implanted with my semen creating an embryo. The best and strongest embryos are frozen in case the first embryo transfer doesn't take. (Tito 2018)

Compared to his dismissal description of the kind of children made available through adoption, his choice to describe the embryos used in assisted reproduction as the "best" and "strongest" highlights that not only is there a disparity between social and non-social family formations, which render one type more desirable than the other. More importantly, it also echoes that from the outset of the procreative process, especially when technologically assisted, children who are designed to

have a biological link to their parents may be regarded by their commissioning parents as discernably superior. Striving towards or attaining dominance through the harnessing of individual genetics, is of course, at the heart of eugenics (McLaren 1990). Thus, Tito's decision to use surrogacy as a biotechnologically assisted form of reproduction is intimately informed by the ableist logics of eugenics.

However, the incorporation of neo-conservative and neo-eugenic ideology in Tito's decision to start a family through surrogacy is problematized by his own identity and how it has affected his decision to start a family. Tito, although working towards biological parentage, is constantly haunted by his inability to fully participate in normalized notions of Canadian procreation. The struggle over the naturalness of biotechnologically assisted reproduction is a common and conservative oriented practice amongst social parents. The focus put on the naturalness of one's decision draws attention to how intending parents understand their choices in relation to what is deemed socially acceptable. This latter point is almost unanimously emphasized by the seven Swedish couples interviewed by Lécho et al. (2011). These parents understand that their choice to use assisted reproductive technologies allows for the bidirectional "...evocation of a social norm (being a heterosexual married couple) ...", both by intending parents as well as society at large (Lécho et al. 2011:198). With regards to the former group, although all parents differ in their interpretation of social expectations, use of the term 'natural' amongst this group served as a means of naturalizing the decision to partake in non-normative procreation. In this model, both biological and social factors played a role, as it is not merely the biological process, or "...an encounter between male and female gametes..." that determine whether reproduction is customary, "...but also the ability to partake in procreation as a norm..." as is defined by the institution of family (Lécho et al 2011:199). It is this final point that I contend best demonstrates

Tito's own adaption of neo-conservatism, with his sexuality prohibiting him from pursuing truly socially acceptable reproduction. For Tito, working within these confines, moving forward with his long-term desire to start a family is a significant part of experiencing social inclusion through participation in a fundamental social institution.

However, such inclusion is mediated using reproductive biotechnologies, constantly rendering those like Tito as straddling the boundaries of meeting the neo-conservative expectations of family through neo-eugenic practices and not being able to do so through unassisted heteronormative procreation. Tito expresses his anxiety about the conflicting nature of his decision, stating that despite it being the next natural step in his life, "...when I saw the technical side [of surrogacy], I felt a little selfish" (2018). Judgement of Tito's decision also comes from external influences, with Tito explaining that "some people don't agree with my decision and think that I am playing God. That something so natural should not be done in a lab" (*ibid*). In each instance, it is the technological and medicalized aspects of Tito's choice that challenge norms and remind him that his family is not, and cannot be, the ideal family that socio-political ideologies have constructed in Canada, regardless of how much he appropriates such ideas to justify his decision.

DECIDING ON A COUNTY, CLINIC, AND CONTRACT

Upon deciding to travel abroad, Tito continued to research his options for surrogacy,

com[ing] across Kiran Infertility Center in Hyderabad, India. India had just pas[sed] a law that stated that one of the intended parents must have an Indian passport. Luckily they had just opened new clinics in Nepal, Ukraine, Russia, and Kenya. When looking at countries['] laws, the only one where a single man can have a child was Kenya. So 45 000 US dollars later, I f[ound] myself on a plane to Mombasa, on my 38th birthday ready to face whatever God ha[d] in store for me. (Tito 2018)

Interested in Kiran Fertility Services, Tito proceeded to consider two issues that may arise during the surrogacy process. Foremost is the nature of his family-to-be, as is determined by the intersection of his sexuality and relationship status. Second, is Tito's concern with how his own citizenship status will affect the citizenship of his offspring. Speaking to the first point, one of Tito's reasons for pursuing surrogacy in Kenya is that it is currently one of the only countries where queer, single parents can hire a birth mother. It is important to note, however, that the lenient regulation of family structure and sexuality is only permissible because of the informal nature of Kenya's surrogacy market. In this, private clinics, like those outsourced from India, establish who and on what grounds their services will be offered to potential clients with minimal interference from the Kenyan government (Kenya Surrogacy Agency 2018). This is not to say that the ability of single or queer parents to pursue surrogacy in Kenya is not restricted by legalities and social conventions surrounding gender and sexuality, with clinics warning clients that a person of the opposite sex is required when exiting the country with newborns. This rule is in place as to not draw attention to the fact that the heterosexual expectations of the Kenyan state and its citizens, enforced through the criminalization of homosexuality, are being disrupted (*ibid*).

Tito's second concern revolves around his status as the first-generation of Canadian born abroad. Under an amendment to section 3(3) "Not applicable - after first generation" of the *Citizenship Act*, which excludes the second generation of Canadian citizen born abroad from being eligible for citizenship, Tito's offspring were disqualified from becoming Canadian through citizenship by descent under paragraph 3(1)(b) (Government of Canada 2019^a). In his post "Would I Go Through Surrogacy Again", Tito states

In 2015, a new law came out under the Harper Government that second-generation Canadian's children do not have automatic citizenship, meaning my children have no status in Canada and would have to be sponsored. I knew about this law, and before I sent \$20 000 US to the clinic, I consulted with them and the [Canadian]

High Commission in Nairobi. I did my due diligence to ensure it wouldn't be an issue. After endless emails back and forth on Oct 16th, 2017[,] I got off the phone with the High Commission and was confident everything was fine. (2018)

Having addressed his two anxieties, Tito requested that the clinic draft a contract. After having his lawyer review the document, he signed it (Tito 2018). This contract provides Tito with four in-vitro fertilization cycles with a "Caucasian" or "Kenyan" oocyte donor or surrogate; the opportunity to transfer multiple embryos each cycle; compensation to the donor and surrogate for all travel, food, and medication costs; analysis of semen for the male donor as well as for chromosomal and neural tube defects; a delivery or caesarean section at the time of birth; nine months of doctor's fees; the clinic acting as an intermediary between all parties; the provision of an abortion for fetuses that test positive for any genetic abnormalities for up to twenty weeks; as well as "guidance and legal help with obtaining of [a] Passport and Exit Visa [for a] newborn" (*ibid*). This final service is offered at no extra cost to the client (*ibid*). Upon signing the agreement, Tito was paired with a Kenyan surrogate who served as the gestational host. Hoping that his children would have darker features, aligning with the Middle Eastern traits of his ex-partner, Tito opted to use an Indian woman as the ovum donor (2018). Upon selecting his donor, Tito and his surrogate underwent four failed cycles of embryo transfers. After the final attempt, the clinic suggested that Tito use the eggs of another Indian woman. The fifth transfer with the new reproductive material resulted in a successful pregnancy and the eventual birth of Tito's twin daughters, Stella and Mia (*ibid*).

Recontextualizing Tito's Journey to Fatherhood

The analytical richness of Tito's discursive account of his journey to fatherhood begins with his decision of clinic, surrogate, and egg-donor. The proliferation and continued use of this market relies on the classist, racist, sexist, and nationalist rationalities of neo-imperialism, in its

many forms, and neo-eugenics (Cooper 2008; Vora 2015). Vora's (2015) analysis of India's transnational gestational surrogacy market is instructive for Tito's case, as India is featured as a hub for surrogacy around the world. As Tito confirms, since Vora's (2015) analysis, India's legislative changes prevent foreigners from hiring Indian surrogates, leaving clinics and social parents looking for alternative means of providing and pursuing transnational surrogacy. Bindel (2016) and Rudrappa (2017) describe the new role of Indian clinics as providing consultation sessions to commissioning parents on potential destination countries as well as outsourcing clinics and reproductive material to avoid restrictions created by the Indian government. In Tito's case, both services were provided, with Kiran Fertility Services relying on the leniency of the Kenyan jurisdiction.

Within a global neoliberal political economy, the ability of Indian-owned clinics to establish themselves in Kenya is attached to "...the longer-established Kenyan Asian diaspora..." (Dickenson 2016:736). Tied intimately to Portuguese and British colonization of both Kenya and India, the current migration of the Indian population and businesses is facilitated by postcolonial global-social networks previously established in Eastern Africa by South Asians (Dickinson 2016:739). With the negative effects of colonialism experienced by each of these countries, it is important to clarify that I am talking about a global hierarchy of colonial subjugation. Specifically, although India experienced domination through the British empire, a key component of this was the ability of India, a rising economic power, to access other colonies, including Kenya. In 1990, governmental actors like the *National Indian Congress* encouraged Indian citizens to "...seek freedoms abroad under the opportunities provided by access to a shared global British empire..." (*ibid*). It is essential to clarify, this Asian-African migration often manifested with a lot of instability and hostility, particularly after Kenyan independence in 1963. For instance, after being

formally freed from colonial bonds, Kenya insisted that Asians residing in Kenya had two years to give up their citizenship for Kenyan membership. Of about 180,000 Asians residing in Kenya, less than 20,000 had applied for Kenyan citizenship, as per the Kenyan state's guidelines (Rothchild 1969 and 1970; Rothchild 1973).

As a continuation of the Indian-Kenyan diaspora, Indian clinics established in East Africa rely on the same neo-colonial and neo-eugenic mentalities that once made Indian surrogates available to Western parents. In this, the prolific nature of biotechnologies, facilitated by neo-colonialism, left Kenya and its citizens vulnerable, so long as the Kenyan government complies with the presence of South Asian businesses in Kenyan territory. Doing so extends the global chain of reproductive violence between global South countries, where lack of regulation allows for women to be exploited in the pursuit of profit by other citizens or organizations of the global South. I must specify, however, that since Kiran Fertility Center is a multinational corporation, the clinic is in a unique position to exploit the biological capacities of women from several countries. In Tito's story, this manifests as the use of an Indian woman as an ovum donor.

The Risk of Disabled and Racialized Bodies in Neo-settler-Coloniality

Shifting perspective to intending Canadian parents, reliance on neo-settler-colonial and neo-eugenic ideology to harness the reproductive capacities of Kenyan-based gestational mothers raises additional concerns about how undesirable bodies that are actualized as a risk to the Canadian state's ability to legitimate its political domination are treated. The differentiation between desirable and undesirable bodies once again affirms the presence of neo-eugenics in Tito's transnational surrogacy process. The most literal application of such ideology is outlined in Tito's contract, under which he can terminate a pregnancy in the presence of chromosomal and neural tube defects (Tito 2018). Abortion as a negative eugenic practice, carries ableist implications, with

the application of biotechnologies in transnational surrogacy reinforcing a hierarchy in which potentially disabled children are framed as risky and targeted for elimination before birth. Tito's narration does not indicate that he took part in such practices. However, this clause in Tito's contract still serves as an eerie reminder of the role of eugenics in nation building projects, especially Canada's, during which the Canadian medical community and other officials played a central role in regulating Canadians' procreation based on supposed psychological and intellectual fitness (El-Lahib 2016; Gaucher 2018; Hanes 2011; McLaren 1990). Kiran Fertility Services is different than the eugenic actors of Canada's distant and recent past insofar that it has no direct connection to the Canadian nation. Even so, in choosing to offer clients abortions²¹, the clinic is implicated in the governance of transnational Canadian families, allowing for a continuation and geo-political expansion of ideologies previously established by the Canadian state.

Neo-eugenics and the erasure of undesirable bodies in Canadian society affects more than disabled individuals. One of the recurring themes of this thesis is that eugenics and settler-colonialism act in relation to one another, ensuring that racialized and ethnicized bodies are also constructed as risks. Tito's contract once again signals to the racial complexities of Canadian parents' use of transnational surrogacy. Kiran Fertility Services provides the option for a "Kenyan" or "Caucasian" surrogate or third-party ovum donor (Tito 2018). Beyond Kenyan surrogates and donors, who are readily available to Kiran Fertility Services' presence in Kenya, offering light-

²¹ Although there is not enough evidence present in Tito's contract or on Kiran Fertility Services' website to confirm, making this speculative, Tito's use of an Indian-owned clinic raises concerns about the gendered dimensions of the neo-eugenic nature of transnational surrogacy. There is a well-documented history of sex-selection, resulting in the abortion of female fetuses, in India. This practice plagues rural parts of the country. Moreover, it is prevalent in states like Sikkin, Haryana, Uttarakhand, and Karnataka (Davey and Sharma 2014:n.p; Sharma 2016:n.p.). Sex-selective abortions are often associated with the misuse of ultrasound machines, with Indian health officials taking up practices like not providing mothers with the aprons needed to protect themselves and fetuses against radiation; a practice that can ultimately lead to the miscarriage of a child (Sharma 2016).

skinned women allows the clinic to cater to Tito as a Canadian, who based on his membership status, is a part of a society that presents whiteness as desirable and central to belonging to the national family. In doing so, social parents can likely avoid the risks associated with a racialized surrogate's body.

Geographer Carolin Schurr studies how white hegemony is "...negotiated, (re)produced and challenged through the everyday choices of consumers and providers of gestational surrogacy in Mexico" (2017:242). Like Tito's experience in Kenya, Schurr (2017) determines that Mexican clinic owners and employees contribute to the reproduction of whiteness by prioritizing egg donors that align with the preferences of their Western clients. As one interviewee states,

Yes, actually, the clinic has a flyer that specifies the requirements to become an egg donor: a certain stature, white skin, light eyes, thin. It appears logical because the majority of clients are Americans or foreigners. It's not about being racist but the majority of the clients have white skin and want their baby to look like them. (Schurr 2017:251)

For me, the power of this excerpt is that it highlights a continuation of Westernized racial preferences embedded in the use of reproductive biotechnologies. As Epstein (2017) discovers in the Canadian context, many of the clients that use assisted reproductive technologies are white, and the institutionalized practices of fertility clinics, both nationally and transnationally, cater to the predominant race of their customers. In the case of gestational surrogacy, the preference for "Caucasian" egg donors mobilizes the undesirability of racialized surrogates "contaminating" clients' children (Tito 2018). In traditional arrangements, during which a surrogate donates her own ovum to the process, the reproduction of whiteness depends on Kiran Fertility Services offering a racially-appropriate, white birth mother.

For Kiran Fertility Center, the elimination of racialized bodies extends beyond contracts. Rather, on their website²², I would argue that whiteness is pervasive, masking many of the racialized complexities involved in transnational surrogacy. It is through the veiling of race that the market meets multiculturalism, where catering to a Western audience requires advertising whiteness but being prepared to deal with the racial diversity of clientele that may come from Canada. For example, a blog titled "Surrogacy Program in Kenya" advertises two images (Kiran Fertility Services 2017).²³ ²⁴ Figure 1.0 is of a fair-skinned, blue-eyed infant.

Figure 1.0



Figure 2.0 is of a white family, complete with a child and same-sex fathers.

Figure 2.0



In both instances, the choice of white children and parents typify the families of transnational surrogacy as light-skinned. It is telling that these depictions are on a post that elaborates on Kiran

²² <https://www.kiranfertility.com/faq/>

²³ See Appendix A for both images

²⁴ The reader should visit Kiran Fertility Services "Frequently Asked Questions", "Surrogacy", "About Us - KFS", and "Home" page for other examples of how pervasive the depiction of light-skinned bodies is to the clinic's advertising.

Fertility Services' "ideal" clients for surrogacy, wherein the presence of light-skinned families and a notable lack of racialized families situates the former category as the most suitable clients (*ibid*). These racial complexities are compounded by gender and sexuality. Again, the gendered component is clearest in the blog's subsection "Program is Ideal For", under which fertility services are listed as best for women who have experienced any number of fertility issues. Such problems include medical complications with their uterus or not being able to adopt due to marital status or age reasons (*ibid*). Presenting women as the best clientele for surrogacy, this practice becomes feminized. To a limited extent, the sexuality of parents in Figure 2.0 challenges the feminization of surrogacy. However, within Western society, where heteronormativity dominates, the depiction of same-sex fathers advances the logic that gender and sexuality (whether clearly feminized through the reference to a woman or by the depiction of forms of masculinity that do not abide by the preference for heteronormative relationships) are determinants of who should become an intending parent. Importantly, the focus put on individual fertility issues once again raises neo-eugenic qualities. According to Kiran Fertility Services' depiction of the ideal client, the ability to reproduce, even when hindered by biological and social barriers, can occur at the expense of surrogates and third-party donors.

Cross-racial differences complicating surrogacy as a white practice

Although idealized whiteness pervades the way that transnational surrogacy is marketed and contracted out to Western consumers of transnational surrogacy, it is striking that Tito's hope that his offspring would be cross-racial with a Middle Eastern-like complexion, like that of his ex-partner. This is further reflected in the fact that at the beginning of his journey to become a father, Tito had a "talk" with his ex about having a child (Tito 2018). Although the pair's relationship ended about six months later, it appears that factors influencing his procreative decisions are

interpersonal. Certainly, Tito's decision to produce racialized children carries clear implications about how the Canadian state can construct Tito's family as a risk. Yet, as an extension of Tito's relationship with his previous partner, it is important Tito developed this relationship while living a truly transnational life. Here, I refer to my previous discussion of section 3(3) of the *Citizenship Act* which limits membership to one generation born abroad (Government of Canada^a). This rule was implemented primarily as a response to dual citizenship and concern over whether this group has a legitimate connection to Canada, whether that be through economic contributions or internalized values (Farney and Rayside 2013:109). Tito in many ways exemplifies the concerns that paragraph 3(3) is based upon, as Tito's decision to live and work abroad for a majority of his life exposed him to other social, cultural, economic, and political practices and preferences that not only become incorporated into his surrogacy journey through the production of cross-racial children beyond the Canadian territory but that also do not reflect the practices and values of whiteness and settler-colonialism embedded in Canadian citizenship laws.

Selling race: Kiran Fertility Service as a multi-national corporation

In offering Tito access to racialized surrogates and egg donors, Kiran Fertility Center is complicit in the racialization of Tito's children and his ability to stray away from the biological and geo-political assumptions associated with Canadian reproductive citizenship. On the company's webpage, the clinic boasts that it has "...helped intended parents from 58 different countries...and [produced] more than 1500 babies through Surrogacy programs in India and abroad" (Kiran Fertility Services 2018). Such a diverse clientele base suggests that the making of racialized children is not a one-off request made by Tito but a part of a larger pattern of providing customers with a baby designed to their specifications, including any racial desires. The availability of racialized bodies and biological features is, as I described throughout several points

of thesis, a consequence of imperialism's many manifestations, making racialized and gendered bodies exploitable (Cooper 2008; Vora 2015). Kiran Fertility Services is uniquely situated as a multinational corporation, catering to potential clients from many countries (in the global South and North) in the broader practice of transnational surrogacy. As businesses with a legal-economic presence in more than one country, the historical emergence of multinational corporations is tied to the networks formed by colonial domination (Tolentino 2001): a tendency that I discuss in relation to the South Asian-West African diaspora which provided Indian citizens, who although also subjugated under colonialization, with enough privilege to open a surrogacy clinic in Kenya (Dickenson 2016:739). Like all businesses, multinational corporations are primarily invested in the accumulation of profit. However, the geo-political expanse of corporations places them in a unique position "...to challenge the rigid boundaries of race by refusing the imperatives of racial 'purity'" (Harrison 2012:256) perpetuated by the neo-eugenic preferences of neo-settler-colonialism. These companies do so by commodifying the racial qualities of surrogates and donors and selling these characteristics to intending parents. From the client's perspective, this allows for the purposeful formation of racially diverse families, with intending parents replicating the cross-racial or similarly racialized qualities of their partnership (*ibid*).

For Tito, the choice to use an Indian donor is not informed by his current partnership but a previous one. Additionally, the commodified production of clients' desired families speaks to the neoliberalization of race at Kiran Fertility Services, with Tito moving into the global economy to fulfill his reproductive desires, becoming risk avoidant by producing children that are biologically like himself and his ex-partner (Hewston 2014). There are two notable points from this discussion. First, although the neoliberalization of surrogacy allows parents to avoid the risk of buying children that do not match their own physiology, this conflicts with the need to be risk evasive

with regards to state expectations of what an ideal Canadian family is. Moreover, although multinational corporations allow social parents and clinics to avoid idealized notions that the Canadian state embeds into family, the ability to buy characteristics by harnessing a surrogate's biological features, whether that be of race or otherwise, furthers neo-eugenic ideology by reifying social categories in biology during the production of designer babies for social parents.

The reliance on neo-eugenic ideology by states, fertility clinics, and intending parents speaks to what Suzanne Lenon and Danielle Peers (2017) postulate as the intersection between race and disability forged by the eugenic and imperial historical system associated with the Western application of assisted reproductive technologies. For these scholars, "the birth of a 'non-white' child to a 'white family' through neo-eugenic reproductive technologies can be understood as such an inconceivable harm, and further, can be pursued through legal action designed to support parental rights to prevent disability, defect and (racial) 'degeneracy'" (Lenon and Peers 2017:14). In their conclusion, the authors are clear that the point of their analysis is not that race acts like a disability. However, because of the notable interest that the stakeholders of transnational surrogacy have in producing biologically desirable children, I propose that it is still necessary to emphasize that the way in which race and disability have come to be articulated alongside one another, carving out a space in Westernized society where social and political preferences for all types of undesirable bodies can be legally opposed (Lenon and Peers 2017). This is not reflected in Tito's experience. Though, in 2017 BBC News reported on a surrogacy case where an Italian woman was arrested after hiring a Romanian woman to have her child and subsequently attempted to return the infant after its birth because it was mixed race.

The Risk of Intending Canadian Parents

Canadian parents are also a part of the risk present in Canadian parents' use of transnational surrogacy. For Tito, this is intimately tied to his identity as the first-generation of a Canadian born abroad, as this status has the potential to disrupt the Canadian state's preference for heteronormative reproduction within national borders (Carsley 2016). As the first-generation born abroad, Tito's decision to procreate transnationally contests the Canadian state's ability to further its hegemony through reproductive citizenship. What is notable about Tito, is that in recounting his decision-making process he explicitly references his knowledge of section 3(3) of the *Citizenship Act*, asserting "I knew about this law, and before I sent 20 000 US to the clinic, I consulted with them and the High Commission in Nairobi" (2018). Within the Foucauldian tradition, the decentralization of Westernized states' repressive authority requires that citizens become "subjects of security", whereby their ability to align their choices with state expectations allows society to remain unthreatened (Larner and Walters 2004:79; Snellart et al. 2008; Snellart et al. 2010). Despite disruption of state expectations, in choosing to clarify this rule with the clinic and the High Commission, Tito presents himself as a securitized and neoliberalized citizen of Canadian governmentality. For Tito, fulfilling this responsibility manifests as checking with government employees to ensure that his actions align with the state's legislative framework surrounding citizenship. Yet, as discussed below, Tito's act of responsible citizenship was insufficient to safeguard the citizenship status and security of his twins born in Kenya.

CONTESTED CITIZENSHIP: TO KENYA AND BACK AGAIN

Despite the successful birth of his twins in Kenya, Tito's family's journey back to Canada was fraught with complications. These difficulties began with the clinic charging Tito an additional 3,500 USD for hospital fees which, according to Tito, were supposed to be included, as per the

contract. Moreover, because of Kenya's conservative society and the criminalization of homosexuality, Tito was instructed to bring a female companion for the discharge of Stella and Mia. This issue was further compounded by the hospital refusing to list Tito as the girls' father, only recording his daughters' first name, the surrogate as their mother, and "XXXXXXXXXXXXXXXXXXXX" where his name should be (Tito 2018). At this point of the process, the lack of defined legal parentage resulted in doubts surrounding Tito's intention to support Stella and Mia, as well as about which countries the girls might seek inclusion. This is best exemplified in a Kenyan nurse asking Tito "what are your intentions with these children, are you going to leave them here in Kenya?" (Tito 2019). Commenting on this interaction in a YouTube video titled "WOULD I GO THROUGH SURROGACY AGAIN?", Tito proclaims his frustration with this perspective and highlights his sense of entitlement within the contractual nature of transnational surrogacy, stating "[his conversation with the nurse is] nothing in comparison to trying to legally deal with something that you pay money for and it should all be done for you like that" (*ibid*).

Ideological Attachments to the Nation

The girls' unclear belonging to a national jurisdiction is situated in a conflict between nationalist-neoconservative and nationalist-neoliberal political ideology. The nurse's questioning demonstrates a continuation of the link between biological and national reproduction forged through more neoconservative-nationalist assumptions embedded into parentage (Deomampo 2015; Mohapatra 2012). Despite technically being genetically related to an Indian egg donor, the surrogate is originally listed as the only parent which prompts an inescapable questioning of whether the twins will remain in their birth country with their gestational mother. Currently, Kenyan citizenship laws abide by the notion of *jus sanguinis*, stating that regardless of one's

country of birth, a child is eligible for Kenyan citizenship if its mother or father is a Kenyan citizen (Embassy of Kenya n.d.). From a biological standpoint, as the girls' mother is Indian, they are technically barred from Kenyan citizenship. Legally, however, since the surrogate's name is written on Stella and Mia's birth certificate, the nurse's assumption that they would remain in Kenya is a legitimate concern. Incoherency between the biological and legal perspective of the twins' entitlement to citizenship and residency speaks to the complexities of parentage in transnational surrogacy as well as the informal nature of surrogacy in Kenya. Unlike in heteronormative parentage arrangements, there is a clear disruption of the genetic link between mother and child(ren) that is supposedly formed through birth. Moreover, the informal nature of Tito's surrogacy agreement means that there is no clear national framework set in place to regulate the Kenyan surrogacy industry or the citizenship outcomes faced by the families who use it, though Kiran Fertility Services' website clarifies that if guardianship cannot be established that children will be left stateless (Kiran Fertility Services 2017).

Juxtaposed is Tito's more neoliberalized-nationalist emphasis on the commercialized character of transnational surrogacy. As the commissioning parent, the commodification of the surrogacy process creates a presupposition of an automatic link between Tito and the children, regardless of the assisted reproductive practices that produced them. From Tito's perspective, the capitalist and contractual nature of his surrogacy agreement means that he should, under any circumstance, get the children he paid for and that the birth mother is merely there to provide a service. Tito's neoliberal rationality is supplemented with neo-eugenic and neo-settler-colonial assumptions embedded in Canadian notions of transnational family and parentage. Tito's gender becomes an important consideration in the presence of neo-eugenics and neo-settler-coloniality. The use of genetics as a metric for Canadian citizenship privileges the paternal rather than maternal

bond, allowing the genetic relationship between intending father and child(ren) to be recognized over an intending mother's, who may need to both use her ovum donor and birth a child (Harder 2015). Since it was Tito's sperm that was used during his transnational surrogacy experience, Tito's presumption of parenthood and belonging to Canada is supported by Canadian citizenship legislation.

The latter two ideologies are demonstrated in Tito's proclamation of "...I'm from Canada, what do you think? [...] Obviously, I'm planning on taking the kids back to Canada". This statement is haunted by the assumption of Eurocentric superiority, whereby leaving the twins in Kenya is a devalued option, although he never explicitly belittles Kenyan society. Conceptually, Tito's narrative is demonstrative of the relative "heft" that Canadian citizenship carries (Macklin 2006:60). Performing a sociological analysis of citizenship, Audrey Macklin theorises the "heft" of citizenship as "...a composite of the elements of membership, within and between all states to which an individual is connected" (2006:57). By this, Macklin (2006) understands that beyond serving as an indicator of belonging to a state, citizenship is endowed with more or less value relative to an individual's global-positionality and relations sustained in a certain location. In this case, Tito's Canadian citizenship would be assumed to carry more "heft" than Kenyan. In Tito's experience, this manifests as the ability to articulate life in global South countries as inferior, commonly "...characterized by chronic political, social, and economic instability" (Macklin 2006:39). Within the transnational surrogacy market, doing so is an exercise in applying the capitalist, neo-eugenic, and neosettler-colonial mentalities which allow for the expansion of the global bioeconomy and the exploitation of gendered and racialized bodies in commodified markets (Cooper 2008; Vora 2015). Although Macklin did not intend her analysis to pertain to different groups in a country, it is analytically useful to understand that while Tito's citizenship carries more

heft in Kenya, the value of Tito's membership is less robust within Canada. As I suggested in the former sections of this chapter, Tito's membership is not at the top of the citizenship hierarchy, with his identity and procreative decision causing him and his children to be constructed as risks to the state.

For the two weeks following the denial of legal parentage over Stella and Mia, Tito had court orders issued, hoping that he would be documented as his daughters' parent. Eventually his surname was added and the girls were released into his custody. Upon their release, Tito's family travelled to the Canadian High Commission in Nairobi, where on December 28th, 2018 officials denied Tito passports for Stella and Mia (*ibid*). Although the issuing of an adequate birth certificate is necessary for securing passports, Tito explains that "the real issue came when the Canadian High Commission in Nairobi...denied issuing my daughters' passport" because "in 2015, a new law came out under the Harper government that second-generation Canadian children [under section 3(3) of the *Citizenship Act*] do not have automatic citizenship, meaning my children have no status in Canada and would have to be sponsored" (Tito 2018). Without proper documentation, Tito's twins are rendered *de jure* stateless, with the family remaining in Kenya until the legal ambiguities surrounding Tito's case could be resolved. In addition to confirming Kindregan's and White's (2013) proclamation that children born through transnational surrogacy can be left *de jure* stateless, presenting a major ethical issue for the parties involved with this practice, Tito's social media posts illuminate how the denial of children's formal membership situates families in a nationality limbo. Lack of membership for Stella and Mia leaves Tito in a difficult position with regards to his own ability to travel back to Canada as a parent with children. Fortunate to have secured the travel visas from the necessary state actors for the entrance of Stella and Mia onto Canadian soil, the Tito's arrived back in Canada on January 9th, 2019. Unfortunately, despite

returning, the twins remain stateless to this day. Hoping to remedy this situation, Tito was advised by government officials to apply to sponsor his daughters through the *Immigration and Refugee Protection Act* (Bergeron-Oliver 2018; Reid 2019).²⁵

It is especially telling that in the media presence surrounding Tito's case, the rhetoric of humanitarianism emerges with regards to the Canadian government's treatment of the case. As immigration lawyer Steven Tress states in an interview with CTV news, "Immigration would be sympathetic on...those two humanitarian applications to try and resolve [Tito's] personal situation. They're not going to open up the flood gates because it is so unusual" (DeClerq 2019). Although Tito and Tress do not name it as such, the process he describes Tito as undertaking is that associated with section 22(1) of the *Immigration and Refugee Protection Plan*. This paragraph allows applicants to request temporary permanent residency, which after being granted, a subsequent request for "humanitarian and compassionate permanent residence" can be made (Government of Canada 2014). The troubling nature of the process Tito is undertaking is that it sets his family's permanent residency in Canada as a conditional legal status. This conditionality is reflected in the *Act* under section 22(2) related to dual intent and 22(1)(1). Under 22(2), the intention "to become a permanent resident does not preclude them from becoming a temporary resident if the officer is satisfied that they will leave Canada by the end of the period authorized for their stay (Government of Canada 2014). Moreover, 22(1)(1) states that a minister can determine that one "may not become a temporary resident if the Minister is of the opinion that it is justified by public policy consideration" (*ibid*). Both exceptions to temporary permanent residency remind that despite being clouded by humanitarian rhetoric, the Canadian state's use of

²⁵ An update in March 2019 from Tito confirms that the twins had just completed the medical examination needed for their permanent residency. Reporting successful examinations, Stella and Mia were supposedly on track to receive formal recognition by the Government of Canada (2019^b). A subsequent Facebook post from July 1st, 2019 reveals that the girls are still stateless (Tito 2019).

altruistic governance situates the state as a moral institution with a great deal of compassion only in exceptional scenarios where serious humanitarian issues arise or where there has been pressure to grant permanent residence (e.g. through public media campaigns to embarrass the government into action) (Callahan 2014:113-114). This erases the fact that such exceptional benevolent practices emerge out of citizenship erosion practices, like section 3(3) of the *Citizenship Act*, or limiting the scope of altruism through gatekeeping mechanisms such as the deportation of queer refugees who cannot sufficiently legitimate their sexuality to governmental officials while settling in Canada (Gaucher 2018).

This deletion of state facilitated discrimination and exclusion is exactly what manifests in Tito's story, with the first-generation exception preventing Tito's daughters from becoming Canadian citizens by descent. Moreover, in choosing to say that immigration officials are "...not going to open up the flood gates because [Tito's case] is so unusual", Tress diminishes the scope of the issues that are associated with transnational surrogacy (DeClerq 2019). On a global as well as national scale, Tito's case is not extraordinary. In fact, as I demonstrate in my use of news headlines in my introduction, it is one of many cases that since the 1980's have become increasingly commonplace and indicative of the tension between methods for global governance and citizens' desires. However, what I do view as extraordinary about Tito's situation is the relative privilege that Tito has in Canadian society as a financially secure, white, male (all traits that are desirable in contemporary Canadian society), who throughout his journey made a point to document the most intimate of details. It is perhaps less surprising, then, that Tito's experience with surrogacy is one with a better ending. After a series of trials and tribulations, the state's reaction to Tito's journey is a means of maintaining that humanitarianism, compassion, and inclusion as values that are integral to Canada's social fabric and ones that Government of Canada

is invested in upholding. As the developers and enforcers of policy, I view governmental officials as responsible for problems that Tito, Stella, and Mia faced. However, this is not a position I take blindly. I do not view Tito as a victim. Frankly, my time analyzing Tito's story leads me to believe that Tito had a great deal of knowledge about the legalities of what he was doing (i.e. he admits to knowing about section 3(3) of the *Citizenship Act*). Yet, he continued to move forward with his plan to form a family, cycling through options until he lands on transnational surrogacy as the most accessible choice.

STATE FAILURE IN THE GLOBALIZING REGIME OF GOVERNMENT

If Tito's choices following his decision to use transnational surrogacy are demonstrative of the Canadian state's success in creating relatively securitized transnational families by protecting its own interests in reproducing national security and the 'integrity' of its systems of reproductive citizenship which uphold sovereign interests, then the complications arising during Tito's journey represent the failure of other actors of governmentality to fulfill their role within the state's globalising regime of government. The breakdown of this system expresses as an inability to abide by the processes set in place to avoid some of the risks present in Canadian parents' reproductive subjectivities. The actions of the Canadian High Commission in Nairobi and Kiran Fertility Services exemplify this. As a part of the globalizing regime of government, the failure of the High Commission and the fertility center manifests as the inability to confirm that the Canadian state legislation used to govern over transnational Canadian families would affect Tito's family, as he originally enquired.

For Kiran Fertility Center, having a part in the Canadian state's globalising regime of government is complicated by the fact that it is not actually a governmental organization. Rather, it is a business with its own priorities, which at one point, should have overlapped with the

governance practices of the Canadian state. As a multinational corporation, it has its own profit-making objectives. With the clinic failing to provide Tito with the services he was contractually obligated to receive, including "guidance and legal help obtaining [a] Passport and Exit-Visa for newborn[s]" as well as coverage of most medical expenses, the fertility center succeeds at extorting Tito for profitable gain.²⁶ Failing to reinforce the Canadian state's political sovereignty emphasizes the need to have a gatekeeping mechanism at the end of the transnational surrogacy process to compensate for if previous one's fail or are less stringent. Tito's experience confirms the need for various phases of regulatory mechanisms, also adding nuance. The processual nature of the globalizing regime of government allows for an action-reaction method for individual actors of governmentality to reconcile any mistakes they make, successfully fulfilling the expectations associated with their role in the biopolitical governance of Canadian families.

CONCLUSION

Despite the constant ability of actors within the Canadian state's globalizing regime of government to reconcile their errors and re-establish the sovereignty of those with political power, interrogating Tito's reproductive subjectivity at different points demonstrates the importance of perspective in this understanding of the governance of Canadian families formed using transnational surrogacy. Throughout this chapter, I trace a constant theme –namely the adoption by Tito of many of the political ideologies or laws relating to the biopolitical governance of

²⁶ The contradictory roles of Kiran Fertility Services and original failure of the High Commission to act as a securitized actor of governmentality ends up costing Tito about 81,000 CAD, as is reported by Global Television (Vomiero 2018). This estimate is relatively consistent with his "Would I Go Through Surrogacy Again" post of *thedaddiaries.com*, where he outlines the cost of his entire surrogacy experience as "...just under 100K..." (Tito 2018). Of course, the irony of this amount, recalling that Tito's original reason for not pursuing a national surrogacy arrangement was monetary, is that it is essentially what is reported to cost commissioning parents hiring a Canadian surrogate; the average price to do so being reported as between 80,000 to 85,000 CAD (Sensible Surrogacy 2019; Smith 2018).

transnational Canadian families. Thus, Tito presents himself as a securitized actor of governmentality in his own regard, attempting to negotiate his own reproductive subjectivities in relation to the desires and expectations of the Canadian state, with the "heft" of his Canadian citizenship allowing him to travel to Kenya and co-opt such ideology for his own ends. However, with non-normative families like Tito's facing so many systemic barriers during the procreative process, such compromise is considerably more challenging. These obstacles manifest differently at various points throughout Tito's journey through transnational surrogacy. For example, towards the beginning of the process, Tito considers a nationally-based surrogacy arrangement as an option, which having been accessible, would have allowed his children to abide by the Canadian state's preference for citizenship by descent and birthright citizenship. Despite Tito's attempt to do his due diligence in fulfilling his responsibility as a Canadian citizen, as is exemplified in actions like attempting to clarify whether his own citizenship will conflict with current citizenship regulations, the success of the Canadian state's systems of governance set in place to manage the Canadian families formed through transnational surrogacy is based on the ability to use concentrated political power in a way that conceals the complexities of parents' experiences. This is particularly important in the case where children are rendered stateless, like Stella and Mia, and the Canadian state transfers responsibility for systemic issues associated with biopolitical governance onto parents, who are left to identify and pursue state-recognized solutions within the globalizing regime of government.

CHAPTER 5: CONCLUSION

At the outset of my thesis, I propose using intersectional governmentality as an analytical and theoretical framework to investigate the way transnational surrogacy acts as a biotechnologically assisted form of familial and national reproduction. With an interest in citizenship studies, I frame this connection as being made possible through federal-level approaches to Canadian reproductive citizenship. My interrogation of the above topic is directed by two primary research questions. The first question is: *how does the Canadian state govern Canadian families that use transnational surrogacy?* The second was: *how do such governance techniques affect the citizenship outcomes of children born using this method?* I pose these questions to capture the complexities of the Canadian state's notion of reproductive citizenship, focusing on the components of how this relationship can be attributed to and experienced by the Canadian state, Canadian parents, as well as their offspring.

GOVERNING OVER FAMILIES USING A GLOBALIZING REGIME OF GOVERNMENT

A critical policy analysis of the legislation, actors, and technologies used to govern over transnational Canadian families and a critical discourse analysis of Tito's social media accounts allows me to pursue three arguments. First, I begin by arguing that the Canadian state governs over Canadian families that use transnational surrogacy using a globalizing regime of government. Aligning with the Foucauldian understandings of population management within a global neoliberal political economy, my conceptualization of this term emphasizes the decentralization of state power and legal-judiciary control by harnessing bio-political processes (Snellart et al. 2008; Snellart et al 2010). Within this articulation, I demonstrate how actors and technologies of governmentality exist nationally and transnationally at various levels of the social sphere. Within the national jurisdiction, I outline this system of surrogacy as including the federal-level Canadian

state, the Canadian-social parent(s), Canada's *Citizenship Act* and *Assisted Human Reproduction Act*, assisted reproductive technologies, as well as the fertility clinic and employees responsible for applying such tools. Beyond Canadian borders this method of governance expands, incorporating lawyers; a surrogate; any third-party sperm or egg donors; the state associated with both the birth mother and donors, including all state legislation regarding citizenship and reproductive biotechnologies; a fertility clinic; birth certificates; Commission officials, as well as the passports and travel visas this group is hired to administer; and finally, Canada's *Immigration and Refugee Protection Act*.

Despite my argument regarding the Government of Canada's reliance on a globalizing regime of government, some of the actors I identify as serving as part of this system may not emerge as governmental actors in other analyses. For example, I am struck by the significance of transnational fertility clinics as a part of this method of bio-political governance. Actors like Kiran Fertility Clinic, although being easily incorporated into Foucault's decentralized model of governance, are often associated with different priorities that do not neatly align with a state's concerns. In the last chapter, I elaborate on Kiran Fertility Services' status as a multinational corporation and how this situates the clinic in a unique position *vis à vis* surrogates, donors, and intending parents alike in the pursuit of profit. At points, the desire to accumulate profit conflicts with the services promised to clients as well as certain expectations of the Canadian state, particularly with regards to the ideal race of Canadian families. As such, beyond my use of intersectional governmentality as a framework, I acknowledge that the role of transnational fertility clinics as a business is more pertinent to how it acts.

THE SIDE EFFECTS OF GOVERNING SURROGACY: BABIES WITHOUT CITIZENSHIP

The globalized reproductive political system has profound implications for children conceived using transnational surrogacy. Addressing my second research question, *how do such governance techniques affect the citizenship outcomes of children born through transnational surrogacy*, I postulate that the Canadian state's globalizing regime of government sets potential Canadians' citizenship in jeopardy, rendering children's stateless in some scenarios. Tito as a case of Canadian families formed through transnational surrogacy exemplifies citizenship precarity as an outcome, with Tito's daughters experiencing citizenship deprivation. This finding aligns with the current literature related to transnational surrogacy, which outlines the statelessness of infants as one of the most pressing ethical-legal concerns associated with the current governance of parents' use of transnational assisted reproductive technologies (Kindregan and White 2013). Even with such potentially devastating consequences, I propose that what is unique to the Canadian context is that a fairly liberal approach to immigration allows for parents whose children have been left stateless to pursue access to national membership through other state-designated pathways. Most commonly, this occurs through the *Immigration and Refugee Protection Act*, with parents sponsoring their child(ren) for permanent residence. Tito's experience is valuable in furthering this line of reasoning, demonstrating that the benefit of state sovereign power is being able to erase the complexities of Canadian-social parents' experiences, holding them accountable for all mistakes that may have taken place throughout the transnational surrogacy process. This includes those made by governmental officials. In the case of Tito's children, Stella and Mia were left stateless despite Tito attempting to confirm with the Canadian High Commission in Nairobi and Kiran Fertility Clinic that his own citizenship, as the first-generation born abroad, would not affect his daughters' ability to become Canadians. By forcing parents and stateless children into the different

pathways for citizenship, my concern becomes whether this practice further creates a citizenship hierarchy. In the case of the Tito's, for example, although Stella and Mia were granted access to the nation through a humanitarian application, they remain in the country on a temporary basis. This means that, truly, their ability to stay in Canada is still up to the Government of Canada to decide. Moreover, even if there are to remain in Canada without citizenship, they may continue to suffer the consequences of their statelessness (i.e. the inability to prove one's identity, access health care or employment, or the ability to register one's marriage) (Stasiulis 2017:8).

CONSTRUCTING THE TRANSNATIONAL FAMILY AS A THREAT

As a key component of biopolitical governance in a global neoliberal political economy, the treatment of parents and children within the transnational surrogacy market is tied to an attempt to secure the Canadian jurisdiction from potential threats (Larner and Walters 2004; Rygiel 2008; Snellart et al. 2010). Aligning with the critical and constructivist epistemologies of intersectional governmentality, I spent a large portion of my thesis exploring how Canadian families formed through transnational surrogacy come to be fabricated as a threat by the Canadian state. In Chapter 2, I posit that the Canadian state's ability to construct certain families as 'risky' is directly tied to the principles of *jus soli* and *jus sanguinis* that inform Canadian reproductive citizenship. These values are foundational to the state's ability to reproduce the nation-state hegemonically by privileging certain families' procreative choices over others. More precisely, from a critical perspective, the system of oppression informing the bio-political governance over Canadian families' procreative choices is rooted in Canada's much longer and much more sinister eugenic history of white settler-colonialism. Focusing on the events of the 1800's and 1900's, the state's concurrent practice of settler-colonialism and eugenics allowed for the Canadian state to center power around whiteness, characterized by alignment with Anglo-Celtic culture, light skin, middle

to upper class lifestyles, able-bodiedness, and heteronormativity (Cooper 2008; Haque 2012; Hill-Collins 1993; McLaren 1990; Pegoraro 2014).

Increasing recognition of Indigeneity, further emphasis on immigration as a form of national development, the invention and proliferation of assisted reproductive technologies, as well as the facilitation of global movements of peoples, especially from the global South, made the overtly racist overtones of Canada's eugenic settler-colonial history less feasible in multicultural Canadian society. Rather, the racial and ethnic diversification of the Canadian population called for more insidious forms of ethno-nationalism; multiculturalism being one of the ideologies I name for maintaining Canada's legacy as a settler-colony. Throughout the entirety of my thesis, multicultural ideology does not have the most impactful role in governing Canadian families formed through transnational surrogacy. However, given that historically multiculturalism emerged alongside immigration, it is necessary to acknowledge this tenet. As I suggest in my second chapter, increasingly in Canada, the focus of multiculturalism is transitioning away from facilitating cultural harmony amongst various groups towards acknowledging the barriers which prevent Canadians from experiencing full inclusion in Canadian society. Throughout my thesis, I articulate this ideology as manifesting in the exclusion of racially diverse Canadian families through citizenship and immigration policy, which when applied by governmental officials becomes an obstacle for undesirable families who attempt to resettle amongst the national population.

More importantly, however, *jus sanguinis* and *jus soli* – the two avenues available in the *Citizenship Act* - remain important principles in determining which families are fabricated as risks to the Canadian state's ability to validate the systems of governance it relies upon to maintain its authority. With regards to intending parents that pursue transnational surrogacy, these principles

manifest in three ways. Foremost, such families pose a risk to the Canadian state insofar that they choose to procreate beyond the national borders. In doing so, parents defy state preference for procreation within the territory (*jus soli*) and prevent children from accessing birthright citizenship. Because of this, the ability to form a biological relationship between the Canadian nation-state and child through parentage (*jus sanguinis*) is privileged in the bio-political governance of transnational Canadian families. The Government of Canada extends the scope of *jus sanguinis* by insisting that for the children of transnational surrogacy to be eligible for citizenship by descent, parents must be able to prove that the child(ren) are genetically Canadian (Government of Canada 2019^a; Harder 2015). Primarily, this biological connection is expected to occur between intending parent(s) and their child(ren). However, because gestational surrogacy does allow for use of sperm or ovum donor, this condition allows citizenship by descent to be granted to those infants who have up to five contributing parents, where any one can be proven as Canadian. As I have described throughout the entirety of my thesis, for transnational Canadian families there is a constraint on the reproduction of 'Canadianness'. I discuss this limit in relation to section 3(3) of the *Citizenship Act* (Government of Canada 2019^a). This is, of course, is what I described in relation to the case of Tito. Having already been born in Italy, Tito's daughters were left stateless at the end of his time using a Kenya-based surrogacy arrangement (Tito 2018). In combination, the Canadian state's use of genetics and the first-generation exception raises concerns about the future of Canadian citizenship. Increasingly, it seems that Canadian citizenship is reserved for those who can procreate within national borders. And, for those who desire to start a family abroad, that there numerous explicit and implicit requirements that the state requires for one's family to be deemed desirable and therefore legitimate.

The principles informing reproductive citizenship for transnational Canadian families privilege certain kin relations, intersecting with various facets of Canadians' identities. Positioning Canadians' procreative processes along numerous socio-political factors within multicultural Canada's "white-centered hierarchies of belonging" (Chen 2016: 205), families in current Canadian society are privileged based on the ability to abide by Eurocentrism, preferably through the ability to identify with the Anglo-Celtic or French preferences of Canada's history as a white settler-colony; immigrant status; gender and sexuality, with non-heteronormative families positioned to have a harder time abiding by the Canadian state's demand for genetic parentage during their use of assisted reproductive technologies; socio-economic status, with upper class parents advantaged within the transnational surrogacy market for their ability to procreate in Westernized countries like Canada, obeying territorial assumptions embedded in parentage; and disability, prioritizing able-bodied families or those, who at a minimum, may have disabled family members but will not be utilizing Canada's social and healthcare system more than the average Canadian (Carsley 2016; Chen 2016; El-Lahib 2016; Este et al 2018).

Undoubtedly, this state-centric perspective of the governance of transnational Canadian family is an essential component of my thesis. However, as the sole view, it erases and depoliticizes the complexities of Canadian intending parents' choices throughout their attempts to start a family. From a sociological perspective, those details are important for understanding how parents navigate the contexts they are procreating in and how their actions relate to governance practices. My attempt to articulate Canadians' reproductive citizenship as not just governed over by the state, but also an active process negotiated by Canadian commissioning parents, is best exemplified in Chapter 4. In performing an analysis of the transnational surrogacy experience of Tito, I demonstrate that Canadian parents who hire a birth mother abroad face several systemic

barriers that hinder their ability to participate in procreative processes that align with state notions of reproductive citizenship. Using his blog, *thedadaires.com*, Tito emphasizes the cost of Canadian-based surrogacy agreements as a major limitation; a form of surrogacy that would have entitled Tito's children to birthright citizenship. In Chapter 3, I explain how the unaffordable nature of surrogacy is the result of the Canadian state's governance of reproductive biotechnologies through the *Assisted Human Reproduction Act*. Until June 2019, although the Government of Canada pushed altruism as a defining characteristic of the application of assisted reproductive technologies in Canada, failing to definitively regulate which components of the surrogacy market can be monetized, results in an expensive market for potential buyers.²⁷ Barriers are also created in the application of the *Assisted Human Reproduction Act*. As Epstein's (2017) work elaborates, fertility clinics' institutional practices reinforce compulsory heteronormativity and whiteness, discriminating against and ostracizing non-normative parents of the basis of gender, sexuality, and race. It is when parents confront these issues that they are catalysed into the global market, making themselves and their child(ren) a risk to the processes and institutions that the Canadian state relies upon to legitimize its hegemony as a neo-settler-colony. Even while abroad, the decisions made by Canadian parents suggest that this group can act as securitized actors of governmentality in their own regard. For Tito, this manifests as clarifying how his own status as the first-generation of a Canadian born abroad will affect the membership of his daughters or adopting an attitude of Eurocentric superiority, aligning with the settler-colonial privilege that enables Canadians to access transnational surrogacy markets.

SOCIAL SOLUTIONS FOR SOCIAL FAMILIES

²⁷ Parents using assisted reproductive technologies in Canada can expect to pay 80,000 CAD to 85,000 CAD for a surrogacy arrangement (Sensible Surrogacy 2019; Smith 2018).

Ending a Chain of Global Reproductive Violence: Removing Systemic Barriers

Given that children are being left stateless and that the choices informing Canadians' experiences with transnational surrogacy are far more complicated than the reductionist tendency to frame them as threatening or unthreatening, new perspectives and innovative solutions must be developed. My own conceptualization of such possibilities is three-fold. My first proposition is addressing some of the social factors facilitating Canadian parents' use of transnational surrogacy, in the first instance. Certainly, discussion in Chapters 3 and 4 highlight the need for affordable surrogacy options for Canadian parents within the national jurisdiction. As Petersen's (2018) and Arvidsson et al.'s (2015) studies suggest, many parents from around the globe who use transnational surrogacy first attempt to form a family within the country of their membership, only to be barred by national legislation. Canada is no exception, with surrogacy costs that approximately doubles options in the global South.²⁸ Certainly, recent changes to the *Assisted Human Reproduction Act* may clarify some of the legal ambiguities contributing to this cost. In the interim, there are other options worth considering.

Having the Canadian state enforce genuine altruistic surrogacy would serve as a means of eliminating the cost of hiring a birth mother. Provided that altruism is already forwarded as a uniquely Canadian surrogacy value within the discourse surrounding the *Assisted Human Reproduction Act*, this fit seems well-suited (Deomampo 2015). However, I do want to make three clarifications about this recommendation. First, removing the economic component of Canadian surrogacy certainly will not eliminate the inequalities and power dynamics present throughout this process. Beyond the surrogacy market, peoples' lives are complex and may involve (e.g. inter-

²⁸ During his time in Kenya, Tito expected to pay Kiran Fertility Services about 40,000 USD (Tito 2018). Similar prices have been cited for Western parents hiring a birth mother in India, while transnational surrogacy was still legal (Pande 2011).

familial) relationships that, in an attempt to fulfill one's procreative desires, may become exploitative regardless of whether there is an economic exchange present. That said, I do not want to fall into the trap of surrogate-centrism that tends to dominate the literature on surrogacy. Although this is a rather vulnerable position for women to be in, many of the clients drawn to surrogacy are those who in Canadian society are excluded from reproduction. For me, a holistic approach to reconciling the issues associated with surrogacy involves attempting to develop a model in which the disadvantages faced by both groups are understood and put in relation to one another. And, since capitalism has a particularly profound way of agitating social inequalities, while the reinforcement of altruistic surrogacy is not a perfect solution, it is an important consideration in making surrogacy a more just practice for all.

Within this model, I suggest that priority would have to be given to Canadian clients, as Canada is a hub for transnational surrogacy in its own regard. This is especially true for queer foreign parents, whose own countries may prohibit anything but heterosexual reproduction (Arvidsson et al. 2015; Petersen 2018). Further regulation of Canadian surrogacy would also mean that careful consideration would have to be given to measures preventing the emergence of an informal surrogacy market; a reality faced in countries like China and India, where clinics, surrogates, and social parents alike can find a way to circumvent increasingly strict state regulation.

A Revolution in Family

Combined with the fact that social families in Canada who attempt to use assisted reproductive technologies are discriminated against on the basis of the many intersections of their identity, there is a need to continue to address the stigma and barriers associated with socialized forms of kin relations. I certainly do not consider this to be an innovative solution. but rather a part of continuing the work of scholars like Sarah Prendergast and David McPhee (2018) who note the

need for a transformation about how family is understood and valued in Canadian society. As my discussions of Canada's history suggests, the preference for heteronormative families is a continuation of the co-constitution of eugenic and settler-colonial practices and ideologies surrounding familial reproduction. The problem is that the idea of family is so intimately intertwined with issues of race, ethnicity, gender, sexuality, Indigeneity, socio-economic status, and disability, both within and beyond the national territory, that eliminating the discrimination that families formed through transnational surrogacy requires transforming or eliminating an entire matrix of oppression. Moreover, because the power surrounding familial procreation is reproduced through biological processes, as is eugenics' legacy, revolutionizing how family is thought about in Canadian society must manifest as de-reifying the reductionist tendency to associate one's identity and ability to belong, whether that be to a family or nation, as embedded in biology.

Transforming the Citizenship Act

With the notion of genetic parentage intimately informing the biopolitical governance of transnational Canadian families, because of the current state preference for heteronormative families throughout citizenship laws, transformation of Canadian society needs to be coupled with a meaningful acknowledgement of social family in Canadian citizenship laws. Once again, this is a complex solution. The acknowledgement of LGBTQ2A+ or families formed through adoption, for example, already exist within Canada's citizenship and immigration policies but are often open to subjective interpretation by state officials and the interests of ruling political parties (Gaucher 2018). For Carsley (2016) as well as Farney and Rayside (2013), the mis-regulation of kin relations speaks to the incoherence between the pieces of legislation already used to govern over familial procreation. Family law in Canada promotes, and generally abides by, understandings of kinship that are far friendlier to non-normative families. And, although the notions of family used

throughout family law are supposed to inform Canada's use of the *Citizenship Act* and the *Immigration and Refugee Protection Act* as pathways to membership, they often do not (Farney and Rayside 2013). Despite the state's failure to bring key pieces of legislation into dialogue, Carsley (2016) suggests that incorporating the principles of family law into the governance of transnational Canadian families would be an effective solution to the problems created by current methods of biopolitical governance. I further propose that considering the citizenship issues faced by Canadian families formed through transnational surrogacy, it may be lucrative to establish a pre-approval process through which the Government of Canada guarantees that the child(ren) of Canadian parents will be granted a citizenship status equivalent to that of their parents. Given the obstacles faced by intending parents, the challenge in undertaking of such an approach will be ensuring that such a process does not add to the limitations already faced by non-normative families.

It is important to note that the solutions that I propose are tied to national territory. I do this for two reasons. First and foremost, the Canadian state's jurisdiction almost exclusively exists within the national territory; thus, focusing on resolutions within Canadian borders allows for the state to take an active role in resolving problems presented throughout this thesis. Second, I contend that emphasizing solutions in Canada is a part of addressing the global chain of reproductive oppression that plagues Canadian parents' use of transnational surrogacy. It is well established throughout the current literature on transnational surrogacy, articulated by authors Vora (2015) and Pande (2011) for instance, that citizens from Western countries hiring a birth mother raises ethical concerns about the exploitation of women's reproductive capacities. However, as I have demonstrated throughout my thesis, this issue is tied to a more expansive and unequitable set of reproductive politics and policies that manifests differently depending on

context. For Canadian parents this usually begins in Canada, with the state's governance of parents' use of assisted reproductive technologies limiting the procreative desires of non-normative Canadian parents. The domino effect created by the Canadian state's governance choice suggest that meaningful, long-term, and globally ethical solutions must first occur within national borders.

DIRECTIONS FOR FURTHER RESEARCH

There are four potential areas of further research that I would like to highlight arising from this thesis. First, there is an obvious need for further empirical research on the experiences of Canadian families that have used transnational surrogacy. Fraught with so many social, legal, ethical, and political complexities, having access to a body of work that addresses Canadian parents' and children's place within the transnational surrogacy market would be an invaluable addition to the almost non-existent literature that is currently available. Granted, the methodological issues that I encountered over the course of my Master's thesis indicate that filling this gap will be no small undertaking. Second, in my introduction, I pose the question: *how does the Canadian state govern Canadian families that use transnational surrogacy?* As it concerns employees, policies, institutions and personnel of the Canadian state, I have oriented my analysis around the federal-level. However, because Canada has a decentralized government, a thorough analysis of the management of Canadian families formed through transnational surrogacy requires interrogating cross-provincial differences. This is especially true with regards to Québec, where the Government of Québec has determined that surrogacy contracts are not legally binding. This means that under all circumstances where a dispute regarding legal parentage occurs, Canadian social parents will not be acknowledged as legal guardian(s) (Éducaloi 2019).

Third, there are additional concerns with how I frame governance throughout my thesis. As I outline in earlier sections of this conclusion, Foucault's decentralized understanding of

government allows an array of social actors to be presented as functioning as a part of the Canadian state. However, actors like transnational surrogacy clinics and social parents, obviously serve more than one role, each with varying interests during the transnational surrogacy process. As I mention above, this means that some of the governmental figures I outline throughout my thesis may not apply in other analyses. Nevertheless, and I argue more importantly, the many functions associated with different actors raises exciting opportunities to explore how various stakeholders of the transnational surrogacy process are actors of governmentality negotiate their various roles throughout the process. Fourth and finally, one of the aspects of this analysis that I find most interesting, and in need of further investigation, is the governance of immigrant-Canadian families. This suggestion pertains both to the immigrant parents as well as the potentially stateless children of transnational surrogacy who are able to join the national family through alternative pathways to Canadian citizenship. Such paths include the *Immigration and Refugee Protection Policy*. Throughout my analysis, I reveal that notions of reproductive citizenship allow Canadian families to be discriminated against on the basis of their membership, distinguishing Canadians born within the national territory, Canadians who are the first-generation born abroad, as well as Canadians who join the national population as immigrants. Such differences suggest that for those interested in a citizenship lens, further explicating the nuances of these differences in governance is a worthwhile pursuit.

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APPENDIX A: FIGURES

FIGURE 1.0



FIGURE 2.0



APPENDIX B: CUREB CERTIFICATE OF APPROVAL



Office of Research Ethics
503 Robertson Hall | 1125 Colonel By Drive
Ottawa, Ontario K1S 5B6
613-520-2600 Ext: 2517
ethics@carleton.ca

CERTIFICATION OF INSTITUTIONAL ETHICS CLEARANCE

The Carleton University Research Ethics Board-A (CUREB-A) has granted ethics clearance for the research project described below and research may now proceed. CUREB-A is constituted and operates in compliance with the *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans* (TCPS2).

Ethics Protocol Clearance ID: Project # 110240

Project Team Members: Ms. Mary Jessome (Primary Investigator)

Daiva K Stasiulis (Research Supervisor)
Dr. Kelly Fritsch (Second Reader)

Project Title: Dangerous Bodies: Securitizing the Canadian Family in Transnational Surrogacy Arrangements

Funding Source (If applicable):

Effective: **February 21, 2019**

Expires: **February 29, 2020.**

Please ensure the study clearance number is prominently placed in all recruitment and consent materials: CUREB-A Clearance # 110240.

Restrictions:

This certification is subject to the following conditions:

1. Clearance is granted only for the research and purposes described in the application.
2. Any modification to the approved research must be submitted to CUREB-A via a Change to Protocol Form. All changes must be cleared prior to the continuance of the research.
3. An Annual Status Report for the renewal of ethics clearance must be submitted and cleared by the renewal date listed above. Failure to submit the Annual Status Report will result in the closure of the file. If funding is associated, funds will be frozen.
4. A closure request must be sent to CUREB-A when the research is complete or terminated.
5. During the course of the study, if you encounter an adverse event, material incidental finding, protocol deviation or other unanticipated problem, you must complete and submit a Report of Adverse Events and Unanticipated Problems Form, found here: <https://carleton.ca/researchethics/forms-and-templates/>