Venue Shopping and Legitimacy: Making Sense of Harper’s Immigration Record

MIREILLE PAQUET Concordia University
LINDSAY LARIOS Concordia University

The Conservative Party of Canada formed the government from 2006 to 2015, under the leadership of Stephen Harper. This decade witnessed tremendous shifts in national immigration policy. These include, among other things, a soft version of civic integration discourses, a considerable increase in temporary migration with the creation of pathways to permanency and experimentation with new methods of program delivery (Alboim and Cohl, 2012; Ali, 2014; Goldring and Landolt, 2013; Islam, 2013; Paquet, 2013). Immigration policy changes implemented under this government have been hard to characterize because they moved in several directions—both restrictive and liberalizing—and used different discourses as justifications, from the idea of the economic contribution of immigrants to the trope of the “bogus” refugee claimant.

As such, Harper’s immigration policy record is one of contradictions, supported by a frenzy of reforms to legislations, regulations, policies, programs and discourses (Omidvar, 2016). How can scholars make sense, then, of the overall pattern of immigration reform under Harper? So far, this period has been explored by studies of single policy changes and by critical analyses of the impact of Conservative decisions on immigrants and associated

Mireille Paquet, Department of Political Science, Concordia University, 1455 de Maisonneuve West, Montreal QC, H3 G 1M8, email: mireille.paquet@concordia.ca
Lindsay Larios, Department of Political Science, Concordia University, 1455 de Maisonneuve West, Montreal QC, H3 G 1M8, email: l_larios@live.concordia.ca

The authors would like to thank the editors and reviewers of the journal for their helpful comments and suggestions as well as the members of the Concordia Centre for Immigration Policy Evaluation, Alexandra Dobrowolsky, Jane Jenson, Lorenza B. Fontana and Audrey Lespérance. An earlier version of this article was presented at the 2017 Canadian Political Science Association Annual Conference.

Canadian Journal of Political Science / Revue canadienne de science politique
© 2018 Canadian Political Science Association (l’Association canadienne de science politique) and/et la Société québécoise de science politique
groups (for example, Aberman, 2014; Chapnick, 2011; Leach, 2013; Root et al., 2014; Zhu, 2016; Soennecken, 2014). Beyond electoral considerations (Marwah et al., 2013), two drivers have been identified to explain policy changes between 2006 and 2015: neoliberalism, which drove market-based reforms, and a conservative ideology, which motivated law and order inspired changes, in addition to new discourses about citizenship and fraud (see Carver, 2016; Dobrowolsky, 2013; Dufour and Forcier, 2015; Forcier et al., 2016; Griffith, 2013; Walsh, 2011; Tolley, 2017). These accounts are of little help to explain the full picture emerging from the large volume of policy changes implemented by the Conservatives between 2006 and 2015. Indeed, the empirical record of immigration reform under Harper does not align with expectations about the impact of neoliberalism and conservatism in Canadian politics; state intervention in immigration did not shrink during the Conservatives’ era but was instead transformed and expanded to new sites of government action.

This article has two objectives: 1) to present a complete empirical account of immigration policy change during the Harper period and 2) to propose an alternative explanation for the Conservatives’ immigration record. By surveying the changes in the federal immigration sector (immigrant selection, asylum policy, citizenship and naturalization, border management as well as settlement and integration programs) between 2006 and 2015, this article builds on the immigration venue shopping and immigration state legitimation literature. In doing so, this article demonstrates a clear pattern: during the Conservatives’ tenure, immigration policy changes corresponded to the redeployment of the state in new venues, increasing the reach and capacity of the government and its leadership role in contemporary immigration governance. Harper’s immigration record was marked by the expansion of government action in regional and international venues; the creation and opening of venues to new non-governmental actors and institutions; the displacement of some portion of immigration governance to subnational, local and community venues and a reinvestment into traditional administrative and executive venues. Despite idiosyncratic discourses about individual policy changes, these reforms all aim at demonstrating state capacity and claiming state legitimacy in relation to immigration and society. These processes of venue shifting do not align with expectations stemming from current discussions of neoliberalism and conservatism in Canadian politics. While not denying the importance of these forces, this new account of Harper’s immigration record demonstrates the importance of attending to broader state concerns and opportunities related to the status of Canada as a traditional “immigration settler society.”

Immigration Venue Shopping

In comparative immigration scholarship, venue-based explanations have gained popularity as an alternative to economic-based explanations (states
Abstract. Canadian immigration policies went through numerous changes under the Conservative party leadership of Stephen Harper from 2006 to 2015. This article provides an empirical account of immigration policy change during this era and suggests that state-centred venue shopping can effectively account for the Harper’s immigration record. In particular, it documents the ways in which immigration policies have expanded into international and regional venues, opened new venues to non-state actors, further decentralized into subnational venues and reinvested into traditional administrative and executive venues for policy making. The analysis suggests that the redeployment of the state into new and expanding venues aims to demonstrate state capacity and legitimacy as a nodal actor in immigration policy.

Résumé. Cet article présente une analyse empirique des changements aux politiques liées à l’immigration effectuées par le gouvernement de Stephen Harper entre 2006 et 2015. Plutôt que de présenter ces changements comme s’expliquant uniquement par le néolibéralisme ou l’idéologies conservatrice, cet article propose qu’ils doivent être compris comme des indicateurs de déplacement des lieux de prises de décision et de mise en œuvre des politiques d’immigration du Canada. Par le biais du concept de “venue shopping”, l’analyse empirique démontre que les changements de politique d’immigration sous Harper ont impliqué l’expansion vers des institutions régionales et internationales, l’inclusion d’acteurs non étatiques, la décentralisation, mais aussi le renforcement des capacités des détenteurs du pouvoir exécutif. L’analyse suggère que ces redéploiements sont motivés par un désir de démontrer et de maintenir la légitimité et la capacité de l’État canadien à être l’acteur central dans la gouvernance des politiques d’immigration au pays.

respond to labour market and capital demands) and domestic explanations (states develop policies to respond to public opinion, social movements and electoral dynamics). Drawing inspiration from Baugmartner and Jones’s model of venue shopping (Baugartner and Jones, 1991, 2009) and its application to immigration politics by Virginie Guiraudon (2000), this article combines state-centred venue shopping explanations with legitimacy-focused arguments about state interests and strategies.

Venues are considered to be the “location where authoritative decisions are made concerning a given issue” (Baugartner and Jones, 2009: 32) and provide a specific group of actors with access to the policy process to the exclusion of others. Policy issues tend to be attached to a specific venue—often based on a policy image—in periods of policy stability. In these cases, a limited set of actors are able to access this venue and to participate in policy making, something that is often described as a policy monopoly. At its essence, venue shopping is concerned with patterns of conflict expansion stemming from the mobilization of non-state actors and their interplay with the state. Conflict expansion, inspired by Schattschneider (1960), has to do with the attempts of political actors excluded from the prevailing pattern of normal policy making to broaden the process as a way to be included. Venue shopping, in particular, represents the strategic attempt to move a policy issue to another venue as a way to modify or expand the number of actors involved, the policy
Applications of venue shopping to immigration policies and politics differ from the classical model in three important ways: 1) their focus on the state as opposed to society, 2) their wider understanding of what qualifies as a venue and 3) their different accounts of actors’ motivations for venue shopping. In this article, we characterize this approach as “state-centred venue shopping” (Garnier, 2010; Guiraudon, 2003; Lavenex, 2006). When applied to the immigration sector, venue shopping has been used to explain instances of conflict contraction and conflict controls, as opposed to conflict expansion. In these cases, bureaucrats and elected officials attempt to “shift venues, or contain policy debate in key venues, in order to limit the scope of political conflicts, and to achieve quicker realization of policies” (Boucher, 2013: 350).

State-centred venue shopping could be at play in most policy sectors. It is dominant in the immigration policy sector, however, because of the direct relation between immigration and central foundations of the state: national sovereignty, exercise of force, citizenship making, and population management. This is reinforced by the growing complex, technical politicized and generally transversal nature of this policy area (Guiraudon, 2000: 251-52). Faced with enormous constraints and political volatility, state venue shopping in immigration aims at limiting the involvement of several national institutions, organized groups and the electorate in immigration policy making (Guiraudon and Lahav, 2000) as a way to increase governments’ autonomy and capacity.

As a result of the specificities of immigration as a policy sector, this approach explores less the actions of actors excluded from policy venues and pays less structured attention to policy images. Instead, immigration research using venue shopping has traced the processes by which governments have intentionally moved the locus of decision making and implementation, co-opted new actors into immigration governance arrangements and designed or curtailed even more specific venues (for example, intergovernmental institutions, bureaucratic forays and the executive).

State-centred venue shopping explanations in the immigration sector rest on a wider understanding of policy venues than traditional uses of the approach. While they can be spaces of decisions, venues may also be sites of policy implementation or spaces where the process of policy design occurs. Guiraudon’s work has used venue shopping to explain both patterns of national governments’ use European institutions for immigration policy making starting in the early 1980s and a growing privatization of
immigration implementation in the region (Guiraudon, 2000; Guiraudon and Lahav, 2000). This trend of venue shifting and different state deployment has been confirmed when it comes to refugee and asylum politics (Soennecken, 2014) as well as border control (Kaunert and Léonard, 2012; Lavenex, 2006;), entry control (Garnier, 2010) and skilled migration (Boucher, 2013). Research has demonstrated that state venue shopping in the immigration sector can operate in several venues simultaneously and unfold in different directions, even under a given government. This process, however, remains highly contingent on national and supranational institutional structures and on the specific configuration of actors in the sector.

In this article, we follow Soennecken (2014)’s work on refugee policy and apply this approach to Canada, albeit with a wider focus on immigration policy and politics as a whole. State-centred venue shopping is especially well suited to this policy sector because of the comparatively limited range of venues offered to Canadian actors excluded from normal policy making in immigration. Vested in a reputation of benevolent internationalism and displaying strong state capacity when it comes to immigration, Canada is not heavily constrained by international institutions in this policy area. As opposed to European cases, its supranational agreements generally do not generate visible venues for immigration policy making at the regional scale. Canada’s federal regime does generate venues but these are generally dominated by executive federalism. Moreover, Canada’s political institutions allow for large degrees of freedom for executive decision making and centralized policy making. Compared to other liberal democracies and other traditional settler societies, the powers of the government, cabinet and of the public administration face little structural oppositions. Features such as party discipline and limited legal activism provide the federal executive actors and the bureaucracy with ample room to effect change in Canada’s immigration policy. This institutional configuration creates few incentives for actors outside of government and those excluded from the policy making process to engage in traditional venue shopping when it comes to immigration. Changes in venues, as a result, are generally the consequence of strategic decisions of actors within the state and, in particular, of the holders of the executive power.

While the majority of studies on immigration under the Harper government have focused on single policy changes or their impact on particular target populations, this article examines the overall transformation of immigration governance, as it shifted into diverse venues during this era.

**Immigration and State Legitimacy**

The heuristic potential of this approach is nonetheless limited if applied without questioning the classical motivations for state venue shopping:
state autonomy in immigration management. Indeed, this trigger—usually identified in studies of European cases—is not as potent in the Canadian case. Current theorizing identifies two categories of dynamics supporting states’ efforts to deploy immigration policy making in new venues (see Lahav and Guiraudon, 2006). First, state venue shopping is a response to constraints stemming from domestic political institutions (for example, bills of rights, courts of justice or veto points) and, to a lesser extent, to domestic political dynamics (Boucher, 2013; Guiraudon, 2002). Second, the need to maintain state sovereignty and autonomy, in the face of international or regional norms (for example EU directives or principle of non-refoulement for refugees and asylum-seekers), is presented as a central motivator for state immigration venue shopping (Guiraudon and Lahav, 2000). In both of these dynamics, venue shopping is a strategy allowing for the maintenance of exclusive immigration policies, the limitation of rights for non-citizens, effective control of a country’s border and continued executive capacities.

These concerns appear to be less present in Canada, as a classical settler state that relies heavily on immigration for economic and demography development. Immigration scholarship has long held that societies where immigration was presented as having played a role in nation building and contemporary development processes displayed different modes of politics from societies considering themselves as societies of emigrants or as spaces of transit for immigrants (Freeman, 2006). Canada represents an archetype of this model of “immigration settler society” (Dauvergne, 2016; Stasiulis and Yuval-Davis, 1995). The geographic situation of Canada has made it relatively easy for the country to manage its borders and, at the same time, contemporary governments have worked to increase effectively the number of immigrants coming to the country. A relatively high level of popular support for Canada’s immigration program and the fact that immigration has never risen to become a central political cleavage in national politics interacts with the limited policy venues in this policy sector. The result is that, from a comparative standpoint, Canada enjoys a considerable degree of autonomy when it comes to the governance of immigration. Domestic and international constraint on the political will of the executive and of the government in the immigration sector will not be potent motivations for venue shopping.

To account for Canada’s particular configuration, a second motivation for immigration state venue shopping has to be explored: state legitimation (Boswell, 2007; Simmons and Keohane, 1992; Walsh, 2008). The starting point of legitimation-based explanations of immigration politics is that the nodality of state, as much as its sovereignty, is not a given. It must constantly be ensured and performed through politically charged processes that unfold both domestically and internationally. The state has to ensure its position as a central actor of immigration management, both in the
eyes of its domestic population—including interest groups and economic actors—as well as in relation to international politics.

Externally, a focus on legitimation brings back into focus the lesson in the immigration sector, even in the case of Canada, “the state not simply as an all-powerful hegemonic leader, but also as grouping of worried actors, always looking at contingencies and seeking strategic solutions” (Simmons and Keohane, 1992: 422). In relation to domestic politics, legitimation is the work that allows the state to claim dominance in relation to other societal actors, immigrant groups as well as economic actors and private interests. Immigration policy reforms and day-to-day politics are part of an ongoing demonstration of the nodality, efficiency and capacity of the state and its institutions in responding to the challenges associated with immigration. From such a perspective, the growing importance of immigration debates have to do with anxieties about “the way in which the state is, or is not, fulfilling its ascribed functions” (Boswell, 2007: 91). These functions may include ensuring fairness, supporting capital accumulation and economic growth, maintaining state security and demonstrating institutional legitimacy (Boswell, 2007). Yet they are not given. Instead, “states strive to satisfy what they perceive to be public expectations about the satisfactory performance of these functions” at any given time (Boswell, 2007: 89). In Canada, Satchewich (2007) has demonstrated that changes to the Seasonal Agricultural Workers Program in the 1970s were largely a response to a legitimacy crisis, rooted in the government’s problem with providing immigrant workers for farmers. Other research has also hinted at the anxiety of the Canadian state to position itself as the broker between national actors’ interests and global migration flows (Paquet, 2014; Veugelers, 2000; Walsh, 2008).

The centrality of immigration for Canadian state building and contemporary economic development lends credence to the potential of legitimation as a central motivation behind venue shopping. From that standpoint, state deployment in different venues would be about demonstrating the capacity of the government to “fix problems,” to make the immigration system “work,” to respond to demands of economic actors and to use venue inclusion as a way to broker the interests of specific actors. Legitimacy-based explanations suggest that this process is immanent; it has and will be done by each government, according to its own ideology and interests, as well as in relation to a specific context.

In this article, this approach is used as an alternative to the ones rooted in neoliberalism, conservatism as well as the one focused on electoral gain to explain policy changes during the Harper’s years. It proposes a shift in the analytical focus to the forces behind changes as opposed to qualifications of policy’s evolution or impacts. While neoliberalism, conservatism and electoral strategies could have been part of the considerations behind these changes, a focus on legitimacy allows for a less essentialist reading...
of their potential influence. It does so by highlighting that these forces are mediated by institutions and structured by the particularities of Canada’s foundational relationship with immigration.

**Methodology**

The analysis builds on a comprehensive content analysis of legal, policy and regulatory changes in the Canadian immigration sector between 2006 and 2015. The analysis is focused on immigration state policies and institutions (Czaika and De Haas, 2013). That is to say, it makes no claims about the impacts of the reform, for immigrants and for society. Instead, Harper’s policy record was analyzed in two ways. First, building on Guiraudon and Lahav (2000), each change was a potential indicator of state venue shopping. This includes a consideration of the redeployment, rearrangement of the sites of policy making and policy implementation, as well as a description of the actors involved and their power relationships, in line with state-centred venue shopping’s broader conception of policy venues. This makes it possible to draw a complete picture of the 2006–2015 reform and to identify, if venue change did occur, the new venues of immigration power in Canada. This mapping exercise opens the door to an exploration of the motivations supporting this government’s state venue shopping in immigration, in dialogue with Canadian and comparative immigration scholarship.

Data collection began with a comprehensive review of press releases from Citizenship and Immigration Canada over the tenure of the Harper government. These were used as a starting point to identify key policy changes and trends, as well as to identify key words to be used for further investigation. Legislative, ministerial, and administrative developments were all included as policy changes in this analysis and moving forward. These key words were then used to search parliamentary debates recorded in the Hansard, the recent academic literature and (to a limited extent) attention given in the media via national newspapers to provide deeper descriptions and uncover additional policy developments. Policy changes were organized into several categories, including: permanent immigration, temporary immigration, settlement, integration, citizenship and naturalization, multiculturalism, federal-provincial relations, institutional and legal changes, and public engagement. Altogether 203 policy changes were analyzed and are listed in the online appendix.

**Harper’s Immigration Venue Shopping**

Overall, the record of policy reform under Harper demonstrates efforts at deploying state activities in new venues and changes aiming at
reconfiguring existing venues to the benefit of the executive. As such, this period cannot be categorized solely as one of venue contraction in the immigration sector, as would predict foundational work on immigration venue shopping. Instead, changes implemented under the 2006–2015 period created new venues, expanded the reach of several institutions and shuffle the membership of others. Four movements have been especially visible: 1) the expansion of government action in regional and international venues; 2) the creation and opening of venues to new non-governmental actors and institutions; 3) the shift of some portion of immigration governance to subnational, local and community venues; and 4) a reinvestment into traditional administrative and executive venues. While moving in different directions, these decisions aimed at ensuring a leadership role for Ottawa in multiple venues. As such, state-centred venue shopping does not correspond to a hollowing of traditional sites of policy making in Canada but to a transformation of the embeddedness of the Canadian state with society and stakeholders.

Expansion to regional and international venues

During the Conservatives’ tenures, several policy changes expanded policy making and implementation to regional and international venues via administrative relations and bilateral agreement (Soennecken, 2014). Most of the time the result of executive and administrative decisions as well as out of public view regulations, they can take the form of more or less formalized working relations, international agreements and even the establishment of venues to represent these relations.

While attending to immigration objectives, these policy changes can also be seen as legitimation work by demonstrating the capacity of the centralized state to manage security concerns pertaining to migration and access to socioeconomic resources by non-citizens. These include the evolution of the designated countries of origin list as of 2011; the signature of an immigration information sharing treaty with the United States in 2011; the establishment of an international co-operation initiative with the UK and Australia to identify and combat immigration fraud; the conclusion of several mobility agreements (for example, Poland); and the creation of new work permits and visas as part of the NAFTA architecture.

A flagship example of this expansion is the signature of the Immigration Information Sharing Treaty between Canada and the United States in 2011, linked to the Perimeter Security and Economic Competitiveness Action Plan signed in 2011 and the related implementation of the Beyond the Borders Action Plan (Canada, 2016). The plan supports increases in collaboration between Canadian immigration agencies—Immigration, Refugees and Citizenship Canada (IRCC), Canada Border Services Agency (CBSA) and Public Safety—and the US Customs and
Border Protection (CBP). Three central immigration initiatives are part of this plan: a robust information sharing plan that includes biometric information; the development of an electronic travel authorization program (eTa) to screen “visa-exempt foreign nationals (excepting US citizens) at the earliest opportunity” (Canada, 2015: 7); and the establishment of a co-ordinated information system about entries and exits to and from Canada and the United States. These initiatives are also linked to the evolution of the Canada-US Safe Third Country Agreement, reformed in 2009 after its original signature in 2004. This agreement generates the principle according to which individuals must submit their asylum claim to the country where they first landed legally. Under the Conservatives, in addition to its consistent implementation, regulatory changes have expanded their reach to nationals of countries like Afghanistan, the Democratic Republic of Congo and Iraq that benefit from temporarily suspended removals.

These openings to regional and international venues aimed, in some cases, at limiting access to the country and at criminalizing deviant immigrant behaviour. Interestingly, however, several of them create pathways of increased mobility and access, via the expansion of Canadian oversights outside of the traditional immigration processing streams. Typical actions in this realm have included the several visa programs in which the federal government partnered with other national governments or organizations for overseas administration. The extension of the India Student Partners Program is an example of this. The China Transit Program (CTP), which waves the visa requirement for China nationals transiting through Canada also exemplifies this change. Beyond visas and conditions of entry, this expansion is also visible when it comes to the deployment of foreign credentials recognition offices overseas, in locations such as China, India and the Philippines as well as the funding of pre-arrival services in various locations, including the UK and on the web. As a result, the venues of state operations have partially extended beyond traditional sovereign borders under Harper’s tenure. As the rest of the policy changes analyzed below demonstrate, however, this has not been at the expense of domestic state activities.

Whether closing off or of opening up Canada to immigrants, expansion into international policy venues was a clear form of state redeployment under Harper. In most of the instances covered under this period, the Canadian state has expanded its reach outside of the traditional sovereignty arenas in partnership with other countries or organizations. It has done so, in large part, not as a way to evade international scrutiny but to instead increase its effective control over immigration and related issues in a very visible manner. These policy displacements into international policy venues demonstrate the capacity of the Canadian state to control and regulate the “residence and employment of non-nationals” as part of a “securitized” migration process and reinforce its position as a necessary and legitimate
actor (Boswell, 2007). Most of these changes, it is worth noting, have developed in the form of partnerships in which the Canadian state has a prominent role.

**Creation and opening of venues to new non-governmental actors and institutions.** Between 2006 and 2015, the government also moved several elements of immigration governance to less traditional actors, such as employers and other third parties. This process allowed policy making venues to become more inclusive of specific actors but it has been especially visible in the reinforcement of a shift of policy implementation activities to non-state venues and institutions. This strategy, resembling a classical model of venue shopping, remains nonetheless state-centred because it is imitated by the government and because these venues remain dominated by the executive and the bureaucracy. This was conducted via sanctions and regulations that generate new roles and new liabilities for non-state actors in the management of immigration. It extended to national non-governmental actors: employers and economic actors, universities and even citizens. It is embodied in programs and policies—more than regulations—that partially rest on the participation of third parties. As an enactment of legitimation work, this rearrangement of policy venues demonstrates the state’s capacity to leverage its authority as a key actor in the sphere of immigration for the economic benefit of the country, responding to labour market needs and managing immigration efficiently.

Between 2006 and 2015, venue openings have targeted several non-governmental third parties in Canada. Employers have been given a bigger role in immigrant selection via the 2008 Action Plan for Faster Immigration, the 2012 Start-up Visa Program and the highly criticized growth of the Temporary Foreign Workers’ Program. In these instances, employers are mobilized to act as gatekeepers when it comes to the quality of applicants, with the rationale that this involvement will allow them to resolve their labour market needs. Several new venues for universities’ participation in immigrant selection and integration have also opened during that period. These include the creation of the Canadian Experience Class, the launch of initiatives to attract and retain international PhD students as part of the “Federal Skilled Workers Program” as of 2011, as well as the establishment of more diverse off-campus work permit programs and postgrad work permit programs. In relation to these programs, post-secondary institutions come to act as gatekeepers by providing an evaluation of candidates or by providing credentials, yet decisions remain in the hands of the federal government.

Immigration governance has been opened to citizens, particularly in relation to the government’s law and order discourse surrounding immigration. They have been given access to official sites of participation. A telltale
instance of this is the establishment of a public tip line to report immigration and citizenship fraud in 2011. The proposal, during the 2015 election campaign, to create a similar tip line for barbaric cultural practices followed a similar logic of asking for citizens’ help in ensuring the integrity of the country’s immigration system. Non-profits and for-profit actors have also been implicated in this. Indeed, the implementation of the government’s legislation on the private immigration industry, introduced in the 2011 Bill C-35 Cracking Down on Crooked Immigration Consultants Act promised to regulate private third parties involved in supporting individuals applying to immigrate to Canada but, as a consequence, also recognized their role as legitimate intermediary between foreigners and the state. The creation of the Immigration Consultants of Canada Regulatory Council also demonstrates this logic of shifting to non-governmental actors.

The flagship examples of including non-governmental policy venues have to do with the increased direct involvement of employers in immigrant selection. The launch of the Canadian Experience Class in 2008 embodies this shift into private, non-state venues. This new administrative category allows for temporary permit holders—be they workers or students—to apply for permanent residence in Canada. In doing so, the government opened a much needed path to permanency beyond the Live-In Caregivers Program but, at the same time, solidified the movement toward a two-step immigration model (Alboim and Cohl, 2012; Lenard and Straehle, 2012). Because of the heavy involvement of employers and universities in the granting of temporary visas, the Canadian Experience Class effectively reinforces their contribution in the vetting of potential permanent immigrants to the country. A similar shift has been at play with the implementation of the Express Entry Program at the end of 2014. This new procedure for the selection of economic immigrants provides Canadian employers with a renewed role in the management of permanent immigration. In addition to increasing the point value of arranged employment in Canada, Express Entry actually allows employers to engage with a pre-selected pool of applicants and to select them to fill jobs in the country. This is facilitated by the establishment of a job bank, managed by the government, which will match applicants with prospective employers.

At the same time, the Department of Immigration, Refugees and Citizenship (then still Citizenship and Immigration Canada) remained in charge of the administration of the system, the evaluation and ranking of applications and the establishment of the technological tools allowing for employers’ participation. While the development of these programs has been a matter of policy expansion into new non-state venues, the centralized state has maintained its position as a legitimate broker between the economic interests of the country and immigration influx (Boswell, 2007; Satzewich, 2007).
Continued decentralization

Central policy changes that unfolded during the Conservatives’ tenure involved displacing processes of defining problems, developing policy, and implementation and monitoring responsibilities to subnational, local and community venues. As a result, this venue shopping enabled new venues to be involved in immigration governance and modified the roster of participants in others. Decentralization to subnational policy venues was clearly present as a feature in previous governments; cities have been recognized as having a responsibility for a proactive role in immigrant integration, settlement administration was transferred to some provinces and a process of federalization has provided provinces and territories with increased input in the Canadian immigration program (Tolley and Young, 2011). As a result, and in addition to the fact that the federal settlement program was always delivered by non-profit service providers (Richmond and Shields, 2005), immigration management came to be seen as multiscalar and, to a large part, asymmetrical across the country (Banting, 2012). Decentralization has provided opportunities to demonstrate the state’s capacity to safeguard economic interests and promote a just democratic approach to immigration, key facets of legitimization work.

During the Harper era, these decisions responded to objectives of efficiency by subsidiarity as well as to goals of representation. Local and provincial actors are to be active in policy development and implementation because they are in a better position to be responsive, at a lower cost. Under this logic, decentralization to provinces has generally continued under the Harper government. The Provincial Nominee Program (PNP) has been implemented in all of the provinces, with the exception of Quebec. In addition, PNPs have grown numerically and the selection categories available to provinces have grown. Bilateral immigration agreements between Ottawa and the provinces have been renewed and expanded under the Harper government, demonstrating the desire to maintain a robust provincial presence in the immigration program. Provincial involvement has also taken new forms, such as the new formal collaborations over settlement programming and over temporary foreign workers. The 2011 BC pilot project to provide work permits for the spouses and children of temporary foreign workers and the support for expansion of the Alberta Assessment Centre for Internationally Educated Nurses are telling examples of this expansion. Funding for settlement providers has been reorganized, with some considerable cuts in some regions of the country but with a maintained understanding that these organizations were the venues where program implementation had to occur (Lowe et al., 2017). The shift out to cities has also been maintained, but in new forms. A central vehicle for local government involvement has been the creation of federally funded networks to support capacity building in immigrant attraction,
settlement and integration. The flagship demonstration of this is the establishment of Local Immigration Partnerships (LIPs) and the Réseaux Francophone de Soutien à l’Immigration (Bradford and Andrew, 2012) that allowed for the development of local needs assessments and for better service coordination between city and community actors. This was also accompanied by the decentralization of some parts of the immigration program to other federal government agencies, such as the move of the Foreign Credentials Recognition Office to Service Canada.

The contentious nature of the economic impact of migration in public sphere discourse means that while labour migration is seen as adding economic value, it must be carefully managed in order to maintain legitimacy (Boswell, 2007). Given this, central to shifting down to provincial and municipal policy venues under Harper has been an attempt to maintain and, in some cases, renew federal leadership in this policy sector. The same argument could be made regarding the limitations to settlement providers’ advocacy activities imposed by Ottawa during this period (Lowe et al., 2017). Indeed, a central consequence of the need to reassert state legitimacy has been an increase in the number of actors involved in immigration governance. This multiplication had the consequence of raising the costs of unilateral federal action and propelling the development of new legitimacies, calling into question what was for a long time the sole domain of the federal government. Engagement with subnational policy venues between 2006 and 2015 featured clear attempts at protecting Ottawa’s autonomy in this policy sector and to re-manufacture a steering role for the Canadian state, as a way to reassert Ottawa’s legitimacy. Yet, as opposed to classical examples stemming from immigration governance in Europe, this was not done by moving policy making to venues detached from society. Instead, it has done so by reinvesting itself into existing venues. The establishment of multilateral institutions for immigration planning and settlement co-ordination (Schertzer, 2015), for example, can be read as an effort to position Ottawa as the lead and arbitrator of provincial/territorial immigration efforts. The government’s efforts also included a focus on due process and a reaffirmation of the role of the Canadian state towards program integrity or institutional legitimacy. The federal decisions to limit the annual number of PNPs, the enforcement of more stringent clauses related to minimum linguistic and skill standards as well as the increase in federal oversight over the administration of provincial programs all point to this. In the same vein, the 2012 non-renewal of the settlement transfer agreements in Manitoba and British Columbia was indicative of a reassertion of the leadership of the federal government over an important component of “nation building,” as declared by the then Minister Jason Kenney (Canada, 2012).
Reinvestment into administrative and executive venues

Harper’s policy record has also been reminiscent of classical strategies of state building: the creation of institutions, the development of state capacity and involvement of the state in new or generally neglected policy venues. Between 2006 and 2015, this strategy has taken the form of a flurry of legislative and regulatory actions that have generated a lot more capacity for the executive and the bureaucracy. Several of these actions limited the involvement of Parliament, of the media and of the public in Canadian immigration governance. A robust reinvestment by the federal government in the area of citizenship policy was one example of the manifestation of the movement. Technocratic innovations, such as the new enhanced permanent resident cards and the multiple new specialized visas (for example, the Business Express Program for Mexican business travellers, the Parent and Grandparent Super Visa, the Start-Up Visa Program), also testify to the desire to increase the administrative capacity of the state. The developments have clearly demonstrated the capacity and autonomy of the state to act as a powerful and legitimate manager of immigration as these policy decisions impact economic accumulation, security and the distribution of resources. In line with the expectation of state-venue shopping in the immigration sector, these changes have not, however, focused on the objective of increasing participation and transparency in the immigration sector. Instead, they facility autonomous government action, leading to a pattern described by Keith Banting as “government by surprise” (2016).

In terms of state capacity in immigration, Harper’s legacy is impressive. At the executive level, this is evident in the creation of the capacity for the minister to issue ministerial instructions, following an amendment of the Immigration and Refugee Protection Act in 2008. These instructions are potent tools of state action, since they isolate the executive from stakeholders prior to decision making. As summarized by Elgersma, they “are not statutory instruments and are therefore not subject to the same requirements concerning consultation and publishing as regulations” (2015). First used to address the backlog of the Federal Skilled Workers Program, ministerial instructions have since been used to establish several immigration classes and to manage immigration levels. They have also been built into the Express Entry system: the minimum CRS score applicants need to receive an invitation to apply for permanent residency and the number of invitations that will be extended for each round is established through ministerial instructions. A similar development of capacity has been visible in the Balanced Refugee Reform Act of June 2010 that created a new IRB Refugee Appeal Division and then in the 2012 Bill C-31 Protecting Canada’s Immigration System Act. As with the previous legislative change, this law proposed some measures that increased the independence and freedom of the state in relation to refugee claimants (for example, the
list of designated countries of origin, the timely removal of failed claimants) while also encouraging strong state involvement in ensuring program integrity, for example, when it comes to smuggling. It also supported the use of new technologies in the management of migration, such as the collection of biometric information, and established strong links between migration and crime (for example, mandatory detention for irregular arrivals). Several other legislative changes over that period (for example, Bill C-43 *Faster Removal of Foreign Criminal Act*) supported a similar logic of increased state action, executive decision making and public administration capacity building.

This reinvestment is also visible when it comes to citizenship and naturalization, an area that had not attracted a lot of attention from the previous government. In 2009, the Conservative government reformed the citizenship test and released a new study guide, entitled *Discover Canada* (Chapnick, 2011). The new test introduced higher requirements and the reformed guide included a section on “Canadian values” (Paquet, 2013). As of 2011, as a response to concerns of security and fairness, a tip line to report citizenship fraud was introduced and a formal inquiry into the question was launched in 2012 (Winter, 2014). Amid failed attempts and several regulatory changes, the government also modified the *Citizenship Act* in 2014. Bill C-24, the *Strengthening Canadian Citizenship Act*, established, among other things, new residence requirements for applications to naturalization, increased application fees, a regulatory regime for citizenship consultants, new mechanisms to revoke and deny citizenship and to reinforce a minimum level of knowledge of Canada, as well as of official language proficiency to be eligible for naturalization. Finally, as of 2011, the issue of credibility when it comes to the oath of citizenship was discussed by the Harper government and a reform to the *Citizenship Act* was proposed in 2015 to ensure that the oath is taken without a full-face veil or any other face covering. These changes demonstrated a strong desire to reinvest in a neglected policy area. In addition to enabling the executive and the government bureaucracy, these changes rested on certain assumptions of fraud and inefficiency. As such, reinvestment into the executive allowed for new government interventions to address perceived policy failure but also to highlight the strong presence of the state in generating (and guarding) citizenship, deriving legitimacy “from protecting the privileged rights of [its] own nationals” (Boswell, 2007: 90).

**Conclusion**

Based on a comprehensive analysis of policy changes enacted between 2005 and 2016, this article has mapped venue-shopping strategies of the Harper government in the immigration sector. It has also has explored legitimacy.
as a central explanation behind policy reforms. In doing so, it has demonstrated that the flurry of immigration policy change that took place during the Conservatives’ tenure corresponded to a clear pattern of redeployment of the state in local, national, regional and internal venues of immigration governance. In particular, four movements have been visible: the expansion of government action in regional and international venues; the creation and opening of venues to new non-governmental actors and institutions; the shift of some portion of immigration governance to subnational, local and community venues; and a reinvestment into traditional administrative and executive venues. Harper’s pattern of state venue shopping involved moving sites of decision making and including new participants into immigration governance but, interestingly, not at the expense of the government’s dominance into the most relevant venues. Instead, the analysis identified policy changes aimed at making the government’s involvement visible and at reasserting its role as the central steering agent of Canada’s immigration system. In doing so, the force behind the Conservative’s venue shopping in immigration appears to have been a need for legitimation, especially in the government’s capacity to ensure economic growth through immigration, program integrity and security. To be sure, this does not mean that the Harper government faced an objective crisis of legitimacy in Canada’s immigration system. Indeed, legitimation-based explanations of immigration politics propose that legitimacy must be constantly reasserted, both domestically and internationally. From that standpoint, successive Canadian governments have also been involved in policy reforms—via venue shopping—aimed at claiming dominance, efficiency, capacity and nodality in the immigration sector. This process, we argue, unfolds through state-centred venue shopping and could be theoretically observed in past, present and future immigration policy reform attempts by Canadian governments, but with different policy outcomes, depending on ideologies and contexts.

Within this framework, it still possible to describe Harper’s policy record as conservative or neoliberal (Forcier et al., 2016; Root et al., 2014). Recognizing the importance of legitimacy and mapping a specific pattern of venue shopping does not negate the potential influence of neoliberal ideas, conservative ideology and electoral strategies as potential drivers of immigration policy changes under Harper. Yet, based on the fact that several instances of policy change between 2006 and 2015 did not fit these explanatory accounts, the analytical strategy of this article has been to refrain from labelling changes as neoliberal or conservative and to instead focus on providing a full picture of this government’s tenure. In doing so, ideas, ideologies and electoral strategies become potential lenses through which the Harper’s government identified challenges to its legitimacy. They also were the lense through which it selected specific venue shopping in the immigration sector. The impact and operation of the unfolding policy decisions, as channelled through Canada’s institutional context, are empirical
questions that could be addressed by future research focusing on specific processes of immigration policy change during the Conservatives’ tenure.

This application of the immigration state venue shopping approach to the Canadian case allows for the demonstration of a pattern particular to immigration settler societies. While classical state-centred venue shopping has documented patterns of venue shopping with the objective of increasing state autonomy from society and international forces, this article has demonstrated that state legitimation can be the objective behind immigration venue shopping for immigration states. Moreover, in the Canadian case, the result of state venue shopping has not been conflict contraction but conflict expansion. Policy changes that took place between 2006 and 2015 have increased the number of venues involved in immigration governance, the number of participants to policy making as well as the visibility of state action in this sector. As a result, Harper’s immigration record is also one of the politicization of several issues having to do with immigration, something that became evident during the 2015 election campaign.

Supplementary materials

To view supplementary material for this article, please visit https://doi.org/10.1017/S0008423918000331.

References


