

# Introduction

The global economy is changing as the economic power base moves from West to East. Post-industrial societies are ageing. No longer possessing a competitive advantage in manufacturing and production, governments in these states face pressure to diversify their economies, to invest in technology and to develop human capital in order to stay ahead. Future economic success depends upon having a smart and skilled economy to promote growth. Within this context, the immigration of skilled workers facilitates the buoyancy of Western economies and alleviates some of the structural challenges represented by population ageing. In fact, skilled immigration not only offsets the decline in the domestic workforce: in many countries, it is becoming the key source of labour market growth (e.g. External Reference Group 2008: 21). Some commentators go so far as to claim that '[s]killed immigration will define the landscape of the global labour market over the longer term' (Alexander *et al.* 2012: 5).

Within this changing economic context, states aggressively compete over skilled immigrants in what has been referred to alternately as the 'global race for talent' (Shachar 2006) or the search for 'the best and the brightest' (Thompson 2001). Once a discrete tool peculiar to the settler states of the United States, Canada and Australia, many countries are now adopting skilled immigration policies. Denmark, France, Germany, New Zealand, the United Kingdom and Ireland have all developed skilled immigration programmes in recent years. Meanwhile the development of the European Union (EU) Blue Card for Skilled Immigrants in 2009 has influenced the proliferation of skilled immigration policies across the European continent. Governments increasingly view skilled immigration not only as a panacea for labour shortages but also – due to the frequently high educational and employment outcomes of skilled immigrants – as a way to avoid the social and economic integration issues that have bedevilled European immigration in the past (Symons 2006). During a period where domestic population ageing contributes to ballooning welfare costs, immigration scholars have advocated the benefits of economically efficient immigration to offset these trends (Beach *et al.* 2007; Borjas 1989, 1999; Koser and Salt 1997: 294).

In addition to the purported economic benefits of skilled immigration, this approach to immigration selection is seen as fairer, more meritocratic and more transparent than previous approaches – in particular those based upon the race or

ethnicity of the selected applicant (Papademetriou *et al.* 2008: 12). Leaving behind a past characterised by race-based selection, which often excluded Asians, Jews, Africans and other non-Anglo-Saxon immigrants, the adoption of skilled immigration has been declared the 'triumph of economics over discrimination' (Passaris 1984: 91). Christian Joppke (2005: ix) characterises this shift as one towards 'toward nonethnic, universalistic immigration policies'. Importantly, Joppke (2005: 2, original emphases) argues that the trend towards universalistic selection policy is particularly strong with regard to economic immigration selection where 'the state may consider the individual only for what she *does*, not for what she *is*'. Echoing these sentiments, debates in the United States over Comprehensive Immigration Reform promoted the introduction of 'merit-based' skilled immigration visas for economic immigration (Koslowski 2014, citing United States Senate 2013).

The prevailing orthodoxy emphasises the ascent of economic rationality and the decline of discrimination in skilled immigration selection. Yet, this status quo reading of skilled immigration overlooks the key ways in which discrimination can continue indirectly. This book considers this central issue of discrimination and focuses in particular upon the question of gender. Feminist scholars have long argued that equality between men and women should be considered both in formal and substantive terms. 'Formal equality' denotes equal treatment on the face of policy or law. For instance, in the case of gender equality, this would require that 'women and men are treated exactly the same in all circumstances' (ALRC 1994, cited in Graycar and Morgan 2002: 28–9). However, advocates of 'substantive equality' suggest that formal equality is insufficient when it leads to different outcomes. Substantive approaches acknowledge that there are 'important, immutable differences between women and men'. Men, for instance, cannot become pregnant, nor do they nurse young children. These 'immutable differences', according to proponents of substantive equality, have implications for the ways in which policy is designed and the differing effects of policy upon the sexes.

Once we move beyond the simple question of whether skilled immigration policies exercise formal inequality between men and women towards more complex questions of substantive inequality, the global race for talent raises a myriad of discriminatory issues that must be unravelled, examined and debated. In this book I ask: 'Do highly skilled women face obstacles to entry as skilled immigrants to a greater degree than their male counterparts?' I find this to be the case and argue that gendered obstacles come into skilled immigration policy at a variety of stages of the policy cycle. They arise in the political discussions through which immigration policies are negotiated and designed in ways that often advantage male applicants and disadvantage female applicants. They also come into the selection stage when immigrants choose to apply as skilled immigrants, based upon assessment of selection criteria. Policy design often overlooks the different life course experiences of women and men, for instance whether part-time work or career breaks are acknowledged within skilled immigration design. Skilled immigration policies frequently perpetuate a stereotypical divide between an autonomous male

breadwinner and an accompanying (implicitly female) spouse. Joint worker-carer models are absent from policy design. Finally, as regards actual immigration outcomes, women disproportionately enter as accompanying family members of skilled immigrants rather than as principal skilled immigrants in their own right.

Yet, this book demonstrates that gendered immigration policies are not inevitable. Immigration ministries have the capacity to alter their immigration laws to ensure that women applicants are considered on equal terms with men. Certainly, selecting governments design their policies against a backdrop of global gender inequalities in labour market opportunities. Notwithstanding this reality, I argue that governments possess the scope to develop policies that are attentive to differences between men and women immigrants, which I refer to as 'gender awareness' in policy design. I demonstrate the importance of state intervention through a detailed comparison of Australian and Canadian skilled immigration policies over a quarter century. I argue that gender issues emerge in different ways depending upon the mechanisms of skilled immigration selection; whether governments design points test models or use salary thresholds, if the focus is on general human capital or specific sectoral skills, or instead when employers wield powers over selection through 'demand driven selection models'.

To some readers, the relevance of gender in skilled immigration policy will seem initially opaque. Yet, I demonstrate that gender is a central fulcrum that informs all aspects of skilled immigration selection. The interaction of the labour market with skilled immigration selection policy is critical here. Major life course events such as education, training, professional work, child bearing, child rearing and retirement affect women differently from men. For instance, women are more likely than men to take career breaks for child bearing and rearing, leading to less linear career trajectories and delayed realisation of key career goals. Further, the ways in which skilled immigration selection policies are designed interact with and reinforce many of these gendered life course dimensions. These life course trajectories in turn interrelate with domestic definitions of 'skill' that in some instances operate to exclude or disqualify the contributions and qualifications of women. Finally, as immigration states become more competitive in the race for talent and as selecting nations place greater emphasis on human capital credentials, language abilities, vocational skills and work experience, the importance of gender is amplified. In short, the global race for talent is gendered, with significant implications for the skill accreditation, labour market outcomes, rights of stay, gendered family dynamics, including freedom from domestic violence and financial independence, of female immigrants.

Given prevailing state sovereignty over immigration selection, some will counter that gendered immigration policies are the prerogative of selecting countries and therefore unimportant as a theoretical or empirical endeavour. As Catherine Dauvergne (2009) argues, the central point of immigration policy is to discriminate. Future immigrants stand outside the nation state and immigration ministers increasingly emphasise their government's right to select 'the best and the

brightest' on their own terms. Adopting an aptly Canadian metaphor in 2008, then Immigration Minister Diane Finley compared skilled immigration selection to selection onto a hockey team. If Canada simply took 'the first 25 people in the line', she argued, this might 'seem fair because they lined up in that order', but 'you might end up without a goalie' (Finley 2008: 1605). Following this argument, it is the right of the government to select the best members for 'Team Canada'.

Yet, when states rejected discriminatory immigration policies in the 1960s and 1970s, with the removal of the White Australia policy in Australia in 1973 and similar policies in Canada in 1962, they also rejected a system of selection that differentiated on the basis of people's uncontrollable innate characteristics (Joppke 2005: 2). For instance, the Australian Department of Immigration and Citizenship's (DIAC) *Fact Sheet 1* summarises that country's multicultural immigration selection policy and states that 'Australia's Migration Program does not discriminate on the basis of race or religion. This means that anyone from any country, can apply to migrate, regardless of their ethnic origin, gender or colour, provided that they meet the criteria set out in law' (DIAC 2009a). Similarly, Canada also places emphasis on diversity in selection, including gender, as evidenced by the inclusion of a requirement for gender analysis in its immigration act (IRPA 2002, s92(f)). With respect to skilled immigration in particular, one of the key objectives of the development of the points tests in Canada in 1967 was to develop a race-blind, non-discriminatory means to select migrants (Green and Green 1999). On this basis I argue that the end of discriminatory selection in these countries in the 1960s and 1970s irrevocably restrained the exercise of state sovereignty by placing an equality check on immigration policies. The non-discriminatory principle imposes some limits upon entry onto the metaphorical hockey team. Normatively, it is not permissible for a country to select a team that comprises only Anglo-Saxon players, or overwhelmingly male hockey players, or that gives more rights to some team members than others, because this runs up against the original commitment to a diverse nation that is a founding feature of non-discriminatory immigration selection. The more complex question is how policies may operate to inadvertently select such a 'team', even if this is not the stated or even implicit aim of government. It is this more subtle issue that this book explores through its analysis of the obstacles faced by highly skilled women in skilled immigration selection.

## Outline of the book

### *Part I: the global race for talent*

This book is divided into two parts. The first part considers the big picture of skilled immigration policies globally and the particular obstacles faced by women applicants in meeting skilled immigration selection criteria. Chapter 1 draws upon research from scholars of feminist industrial relations, sociology, economics

and intersectional feminist studies, to develop a new theoretical framework to assess the gendered dimensions of skilled immigration policy. These theoretical accounts have long identified the particular labour market obstacles which women face due in part to their heightened levels of engagement in reproductive labour (child bearing and rearing) but also due to gendered appreciations of worth on the labour market. Chapter 1 brings the analytical insights of these theories to bear upon the area of skilled immigration.

In Chapter 2, I present a unique international data set (the 'GenderImmi data set') that I developed to analyse skilled immigration policies across twelve key OECD countries and thirty-seven visa types. Two multi-lingual coders analysed legal regulations of thirty-seven immigration visas from twelve OECD countries with high rates of net migration.<sup>1</sup> Drawing upon the framework established in Chapter 1, three key areas of 'gender awareness' are considered: i) the extent to which gender mainstreaming processes are incorporated into policy-making; ii) the ways in which the different life courses of men and women are acknowledged in skilled immigration policy design; and iii) the (gendered) definitions of 'skill' within such policies. This medium-N comparative analysis demonstrates that countries such as Canada and Denmark that undertake gender audits of their immigration laws or admit applicants in female-dominated occupations such as the caring fields perform better in terms of gender awareness than countries like Austria, Australia, the United Kingdom and Ireland that do not undertake such audits or that focus narrowly on selecting immigrants from male-dominated Science, Technology, Engineering and Mathematics (STEM) professions. This finding is important for the second part of the book that explains the reasons for differences in the gender awareness of Australian and Canadian skilled immigration policies.

### *Part II: gendering skilled immigration policy in Australia and Canada, 1988–2013*

Even if we know how countries vary in terms of their attention to gender within skilled immigration policies, this analysis does not explain why such countries differ. The second part of the book provides a detailed analysis of Australian and Canadian skilled immigration policies over a quarter century (1988–2013) in order to address this explanatory question. In this part of the book, I consider how policy processes might enable, or restrict, the realisation of gender-aware skilled immigration policies. The case selection of Australia and Canada is motivated by a most-similar design that allows key explanatory variables to be isolated (Lipset 1990: xiii, cited in Bloemraad 2006: 12). Against considerable similarities – that I outline briefly below – this second part of the book explains why Canada adopted more gender-aware skilled immigration policies than Australia over the period 1988–2013.

## Case selection

Although Australia and Canada are relatively small countries with populations of approximately twenty-three and thirty-five million persons respectively, they are central players in global immigration debates. Australia attracts about 219,500 permanent immigrants per year, and Canada attracts about 248,700. They also admit 125,070 and 213,573 temporary economic immigrants respectively each year (DIAC 2013a: 5; CIC 2013g).<sup>2</sup> Both countries have very high net immigration rates over the period 2005–10 (11 per cent in Australia and 8 per cent in Canada), ranking them as the top states in the OECD (Chiswick 2013; UNDESA 2012).<sup>3</sup>

Other countries often hold up Australia and Canada as exemplars of skilled immigration policies, worthy of policy transfer. The British Government adopted an ‘Australian-style points test’ for skilled immigration in 2008, while Denmark in 2010 also developed a points test system for selection (Sparrow 2008; Copenhagen Post 2010), a concept which actually originated in Canada in 1965 (Hawkins 1989: 39). In addition, various versions of the points test were implemented in New Zealand in 1989, the Czech Republic in 2003, Singapore in 2004 and Hong Kong in 2006 (Papademetriou 2008: 7–9). Given their importance as sources of inspiration in the skilled immigration policy field, as well as their relatively advanced policy experience, Australia and Canada provide important cases not only in their own right but also for other countries to consider.

Australia and Canada also both draw on a British colonial history, an Indigenous population and a racialised past of immigration selection, replaced in modern times with multicultural selection policies. Migration scholars refer to them both as ‘settler states’ (Freeman 1995) or ‘classic countries of immigration’ (Cornelius *et al.* 2004: 12). Institutionally, both countries are also similar with Westminster-inspired arrangements: largely majoritarian electoral systems, a fusion of executive and legislative power and a two-party-dominated model with an increasing role played by minor parties. These two countries are also both federations and share labour market similarities, often being classified as liberal market economies (Hall and Soskice 2001).

Both Australia and Canada have accessible naturalisation, within four years of landing (Australian Citizenship Act (2007) (Cth), s21; Citizenship Act (1985) (Cdn), s5(1)(c)). Both countries have truly multiethnic communities with 24 per cent of Australians foreign born and 20 per cent of Canadians (Hawthorne 2014: 4). Both countries also have similar geographical dispersal of immigrants with the bulk of new immigrants settled in key cities – Sydney and Melbourne in the case of Australia, and Toronto, Vancouver and Montreal in the case of Canada (DIAC 2007a: 14; CIC 2009a). This has resulted in similar geographical concentrations of the costs and arguably also the benefits of immigration. Finally, in recent years, these countries demonstrate important economic similarities in terms of burgeoning resource sector growth, which has seen them weather the global financial crisis well, producing strong demand for skilled labour.

Venue shopping and diversity-seeking: the theoretical approach adopted in this book

Despite these similarities, as Part I of the book demonstrates, there are nonetheless important differences in skilled immigration policies across Australia and Canada, including from a gender perspective. In order to explain this divergence, I draw upon venue shopping theory from American public policy scholarship and historical institutionalism to explore this issue (Baumgartner and Jones 1993; Mezey 1979; Pierson 2006; Pralle 2006a, 2006b; 2007; Weaver and Rockman 1991). In particular, these scholars focus on how actor engagement in different institutional venues shapes the perception of a policy problem (the 'policy image') and in turn the efficacy of actors' claims on the state for policy change. Following the argument of these scholars, I propose that the engagement of feminist and immigrant associations ('diversity-seeking groups') in key policy venues is essential to ensure gender-aware skilled immigration policies are achieved. In their absence, policies will necessarily exhibit a more economic rationalist character as bureaucracies and immigration ministers exercise considerable control over the policy process (Boucher 2013a). I define 'diversity-seeking groups' as those individuals and organisations that pursue social justice and human rights goals, as opposed to purely economic objectives in immigration policy-making. In Canada, there has been more scope for the involvement of such groups in key institutional venues than in Australia over the last twenty-five years. Such institutions included feminist bureaucratic networks within government, parliamentary committees, federalist structures and the courts. In contrast, government in Australia exercised more 'bureaucratic control' over the immigration policy process than in Canada and there was a lack of active diversity-seeking engagement. This approach is laid out in the second part of the book and is evidenced through a mixed methods approach that combines qualitative media, archival and legal analysis with 128 elite interviews undertaken with members of diversity-seeking organisations, immigration officials, senior parliamentarians and trade union and business representatives. This methodological approach is outlined in detail in Appendix 3.

Four case studies of skilled immigration policies

The argument that the engagement of diversity-seeking groups in institutional venues matters for gender-aware immigration policies is explored through four detailed case studies of Australian and Canadian immigration policies, from 1988 through to 2013. The first case study is presented in Chapter 4 and starts in 1988, a pivotal year for the economic focusing of immigration selection policy in both countries. During this time, we observe an emerging concern within government over established immigration selection methods and a tightening of family reunification routes. Both dimensions of policy reforms have significant gender implications. In Chapter 4, I argue that the restrictions on family reunification alone did

not lead to less gender-aware policies, as spouses who previously came via family reunification channels had the opportunity to enter as the partners of skilled immigrants. Instead, it was the cuts to extended family categories – assisted relatives in Canada, and the concessional class and parent immigration in Australia – that held the most substantial gender implications. This is because there was no substitution effect between family flows and increased skilled immigration intake for these extended family categories.

Chapter 5 considers the second case study – changes in skilled immigration points tests in Australia and Canada over the decade from 1993 to 2003. Points tests have a long pedigree in both countries, having been adopted in Canada in 1967 and Australia in 1978. However, the period from the early 1990s onwards was marked by a refinement and increased selectivity in points tests. In Canada in 2002, a new immigration act, the Immigration Refugee Protection Act (2002) (IRPA) was passed with a renewed points test that presented a greater focus on general human capital criteria. Australia took the opposite approach to its points test design over this period, with the adoption of a specific skill model. In Chapter 5, I argue that the points test adopted in Canada was more gender aware, an outcome informed by the engagement of diversity-seeking activists in the policy process and due to the establishment of a gender-based analysis unit within Citizenship Immigration Canada (CIC). The absence of gender considerations in Australia relates to tight administrative control by bureaucrats and the immigration ministry over the policy process and their reliance on regulatory instruments to achieve key policy goals.

From 2006 onwards in both countries there has been a shift towards more selective and occupationally focused selection methods for permanent skilled immigration. A third case study, presented in Chapter 6, demonstrates that over time, Canadian policy-makers have adopted many of the methods of bureaucratic control developed in Australia during earlier periods, leading to less gender-aware policies in the permanent skilled immigration field in Canada. There has also been a growing bifurcation of ‘his’ and ‘her’ occupational modes of entry within skilled immigration programmes in both countries. Activists are also increasingly blocked from engagement in policy processes, due to the bureaucratic nature of such reforms.

In the fourth and final case study, presented in Chapter 7, I consider the rise of temporary economic immigration in both countries. Australia and Canada have both undergone mining booms since the mid-2000s. Temporary immigration is an important source of labour for their resource sectors. Recent immigration policies in both countries respond to this changing economic and industrial context, which has been accompanied by gender stratification within temporary flows: women are underrepresented in skilled temporary flows in both countries. However, in Canada, low-skilled temporary schemes have become an important avenue for the entrance of female immigrants, albeit with fewer rights than those entering on highly skilled temporary visas. Some attempts have been made by



diversity-seeking activists in Canada to secure greater labour rights for these low-skilled temporary immigrants and these are documented in Chapter 7. Australia to date has eschewed low-skilled modes of entry for economic immigrants and the gender implications of this policy position are also considered in that chapter.

Differences in the gender-awareness immigration of policies across countries and through time can be attributed not only to activities by diversity-seeking groups or the institutional forums in which they participate politically, but also to 'supply-side' features of such groups. In Chapter 8, I take an inward turn and consider the internal dynamics of diversity-seeking organisations and the implications for their engagement in skilled immigration policy processes. Undertaking an audit of all major organisations in the field in Australia and Canada, I demonstrate the importance of funding mechanisms, coalition building and a flat organisational structure for diversity-seeking group strength, which is a necessary precursor to venue shopping. The final chapter concludes by considering the practical policy and theoretical implications of the gender analysis presented in this book.

### Notes

- 1 The codebook will be available on the author's website following publication.
- 2 No comparative OECD data exist for temporary workers entrants for Australia and Canada in 2011–12, so these data are compiled from domestic reports.
- 3 This rate measures '[t]he number of immigrants minus the number of emigrants over a period, divided by the person-years lived by the population of the receiving country over that period. It is expressed as average annual net number of migrants per 1,000 population'. By way of comparison, the USA had a net migration rate over the same period of only 3 per cent.