Canada: A Global Leader for International Protection?

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Canada's contribution to protecting the world's refugees is undeniable. Through its resettlement programs, its participation in international responsibility-sharing and, more generally, its promotion of the Global Compact on Refugees (GCR), Canada has demonstrated a firm commitment to the goals and principles enshrined in the 1951 Geneva Convention on the Status of Refugees (Milner, 2021; Atak et al., 2023). However, the recent events at Rohxam Road—where significant numbers of asylum seekers crossed the US-Canada border until its closure in March 2023—have highlighted on-going issues with regard to Canada's approach to international protection. Whilst the country is amenable to welcoming refugees so long as they can be selected in an orderly manner, Canada proves more reluctant to accept spontaneous applications of people crossing the border without being invited. Whilst immigration in general tends to be uncontroversial in Canada, asylum in particular raises more concerns on the part of politicians and public opinion. More precisely, the Canadian public generally welcomes immigration, which is regarded as a positive contribution to the country's economy (Bilodeau et al., 2012; Lawlor, 2015). When it comes to refugees, however, the opinion is more critical and tends to see new influxes as a burden for the welfare state (Wallace, 2018). Bearing witness to the phenomenon is the increased politicization of refugee matters in the 2015 Federal election, in which Canada's response to displacement from Syria took central importance (Gravelle, 2018). This working paper explores the tension between the two faces of asylum policy in Canada—orderly resettlement vs. spontaneous asylum applications—in the light of the irregular crossings at Roxham Road over the past few years. First, I illustrate the country's financial and operational contribution to the international protection regime. Second, I elaborate on Canada's reluctance to admit spontaneous asylum applications. I also summarize the consequences of the recent renegotiation of the Safe Third Country Agreement with the US; namely, the inadmissibility of asylum claims on Canadian soil and the human rights violation it may entail. Finally, I examine available data on public opinion regarding immigration and asylum with a view to understand where people stand on the trade-off between reducing irregular crossings and upholding the protection of human rights and ask whether asylum has become a commodity in Canadian politics. I conclude with a tentative answer to the question posed in the title: Canada's handling of irregular crossings casts doubts on the ability of the country to act as international protection champion.

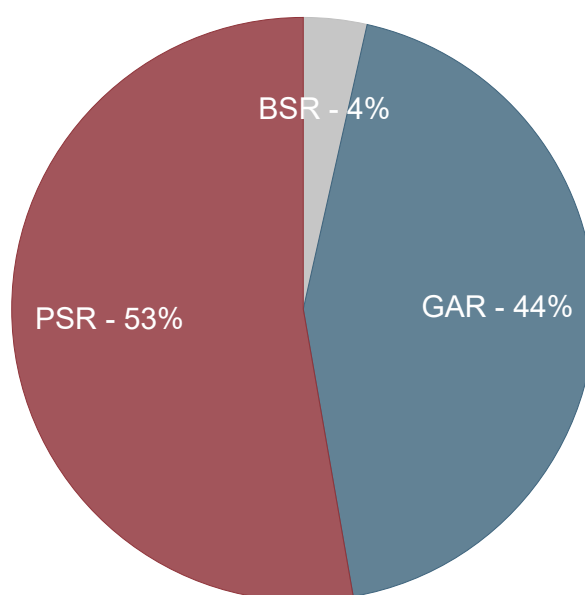## A MAJOR ACTOR IN THE GLOBAL GOVERNANCE OF INTERNATIONAL PROTECTION

The contribution of Canada to the cause of refugees dates back to the international regime's very inception with the 1951 Geneva Convention (Milner, 2021; Atak et al., 2023). Despite its geographical isolation and remoteness from conflict zones, the country has fully embraced the moral duty that falls upon states to protect those fleeing persecution. Canada is traditionally one of the countries that resettles the largest number of refugees, both in absolute and relative terms. As the figure below, left-hand side, shows, Canada's absolute number of resettlement—that is, the total number of people it resettles in the country per year—has taken over the USA's in 2018, making Canada the world's biggest contributor to the international resettlement effort. The USA were the biggest contributor up until the election of Donald Trump in 2016, which led to a drastic reduction of the country's commitment in terms of resettled refugees. The number further decreased when President Trump set a cap of 18,000 refugees to be resettled in 2020. Note though that Canada was always the biggest contributor if the number of people resettled is compared to the country's population size, as depicted in the figure below, right-hand side. Thus calculated, the USA has resettled an average of 17 refugees per 100,000 inhabitants over the years 2000-2022 while Canada has resettled an average of 52 refugees over the same period (calculated on UNHCR data).

## Yearly number of resetled refugees, 2000-2022
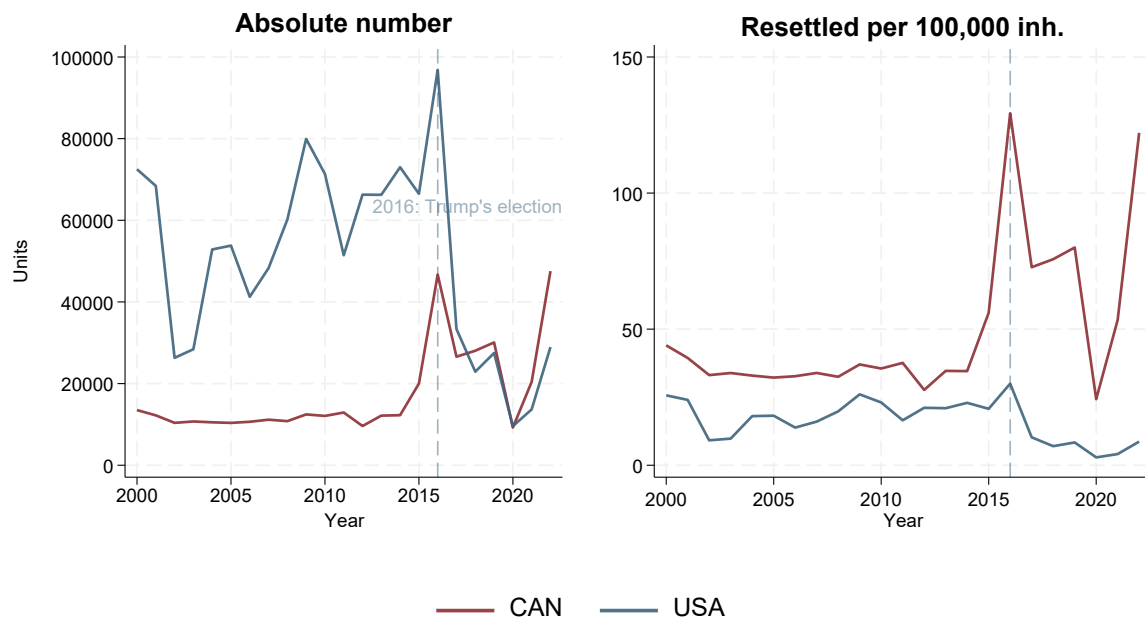
Source: own elaboration on UNHCR data

A good deal of this resettlement takes place within Canada's innovative, and often praised, Private Sponsorship for Refugees (PSR) program, whereby community organizations or groups of people sponsor the reception of refugees while the government of Canada conducts security and health screening. Refugees resettled via PSR are assisted in their establishment in the country, which contributes to their integration in Canadian society. Assistance includes covering the costs of lodging and day-to-day expenses, orientation with everyday activities (such as transport and banking), help with finding employment, etc. According to Immigration, Refugees and Citizenship Canada (IRCC) data, PSR represents 53% of resettlement to Canada conducted over the period between January 2015 and July 2023. In the same period, government-assisted resettlement (GAR) and blended sponsorship resettlement (government and residents; BSR) accounted for 44% and 4% of the total, respectively.

Admissions of Resettled Refugees, Jan.2015-Jul.2023

Interestingly, these percentages vary significantly in terms of type of resettlement for different countries of origin. For instance, GAR account for 80% of the almost 11 thousand resettled people from the Democratic Republic of the Congo, while PSR represents about 88% of the 36 thousand resettled from Eritrea (IRCC data). Resettlement is also part of the government of Canada's pledges to the Global Compact on Refugees (GCR). Canada is among the main contributors to the responsibility-sharing effort coordinated within the framework of the United Nations' GCR, with a total of 14 pledges since the adoption of the Compact in December 2018 (see UNHCR data on pledges and contributions).

Pledges in North-America and Europe, 2018-2022
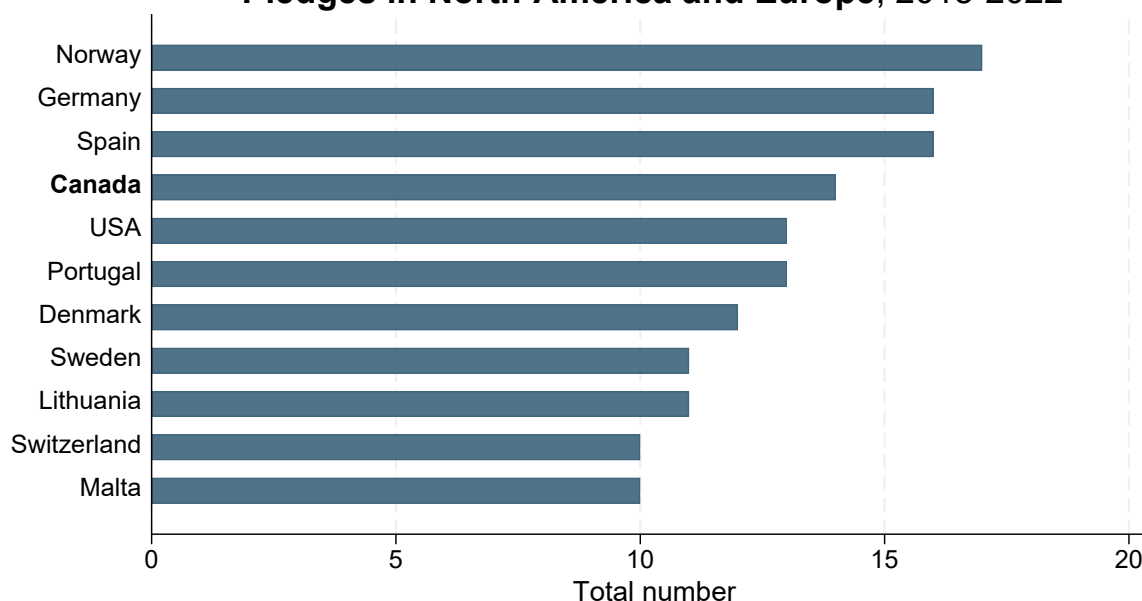
Said pledges include resettlement commitments but also asylum capacity-building, notably in Central and South America, education of women and girls in conflict-affected countries, and promotion of community-based sponsorship programs for refugees. Canada's participation in

the GCR's goals is in continuation of its commitment to the funding of UNHCR over the years. Canada is consistently among the 10 largest contributing states to the budget of the UN agency, with 2.6% of all the state contributions in 2023 (see UNHCR's financial data).

Ten largest contributing states (and the EU) to the budget of the UNHCR (% of the total of state contributions)

		NLD 3.4	DNK 3.3	CAN 2.6
USA 45.2	DEU 8.1	FRA 3.6	NOR 3.4	
	EU 8.5	JAP 5.3	SWE 4.2	
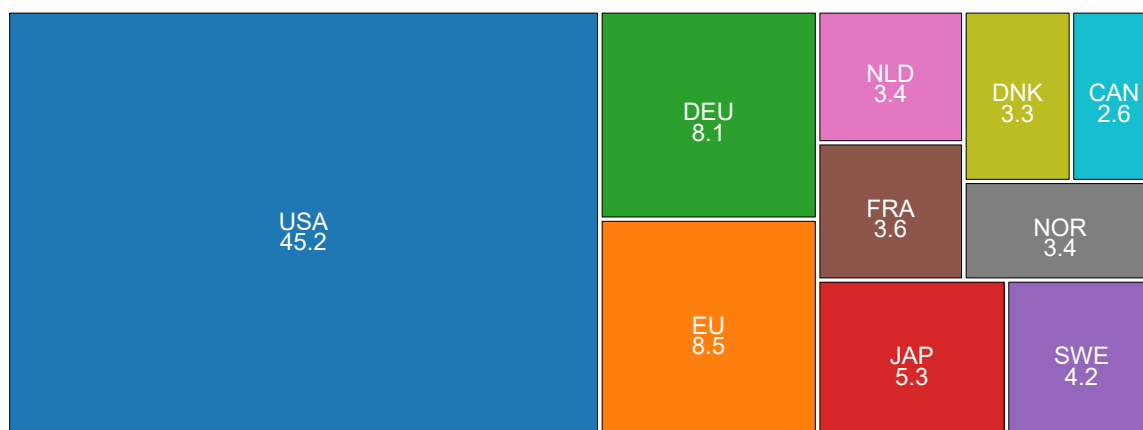
Source: own elaboration on UNHCR financial data

A RELUCTANCE TO ADMIT SPONTANEOUS APPLICATIONS AT THE BORDERS

Despite its continuous commitment to the international refugee regime, the recent increases in asylum applications further to irregular crossings at Roxham Road have sparked vivid political debates. On the whole, asylum applications in Canada surged in 2016, declined in the midst of the pandemic, and rose to their highest level in 2023, with a yearly figure approaching 97,000 in September. According to IRCC data, most applications are lodged in Québec and Ontario, with respectively 47,345 and 39,825 applications lodged between January and September 2023.

Total asylum claims -- CBSA & IRCC, up to Sept. 2023

Legend: Canada, Québec, Ontario
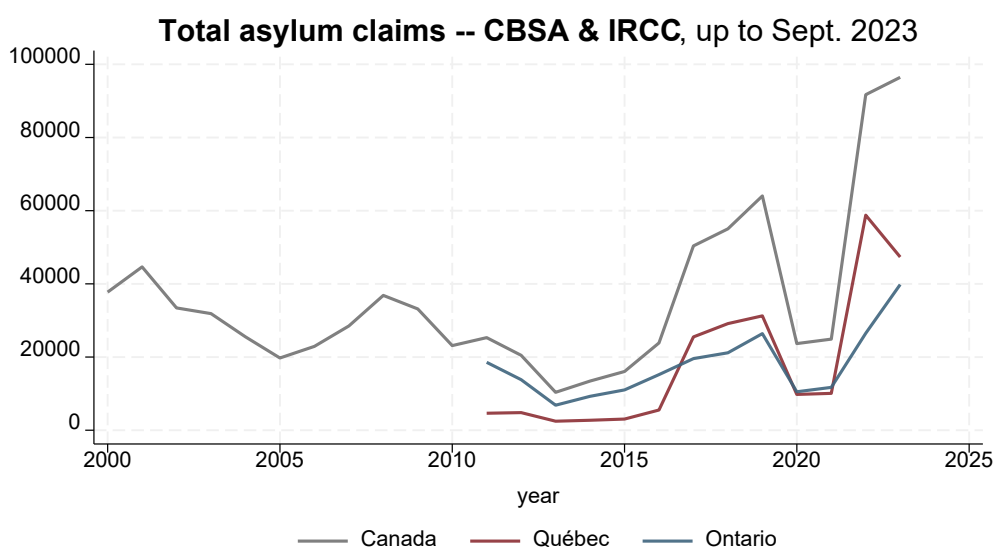
Source: own elaboration on IRCC data

A substantial share of these claims was lodged upon apprehension by the Royal Canadian Mounted Police (RCMP; IRCC data), further to irregular crossing of the US-Canada border (about 41% of the total number of asylum claims in 2017 and about 43% in 2022 for the highest

percentages in the 2017-2023 period). Circa 97% of the interceptions between January 2017 and March 2023 were realized in Québec.

 Soaring irregular crossings at Roxham Road in 2016-2017 had already sparked public debate, despite the absolute number being relatively low compared to the number of foreigners admitted in Canada every year. Most notably, Francois Legault, then leader of Coalition Avenir Québec, had called for tightened border controls and stricter asylum rules. While the number of irregular crossings collapsed as a result of COVID-19-induced border closures, it surged again with the reopening of borders in November 2021, raising renewed controversies in the political sphere. The same Francois Legault, now Québec's Premier, voiced his concerns about the pressure the influx of people was to exert on the province's social services. In an open letter to *The Globe and Mail* published in February 2023, he called for the Federal Government to close Roxham Road and renegotiate the Safe Third Country Agreement with the US. In the same month, Conservative Pierre Poilievre, leader of the opposition, joined Legault's call and urged Prime Minister Trudeau to close Roxham Road and protect the border.

RCMP interception in Québec, Jan.2017-Sept.2023
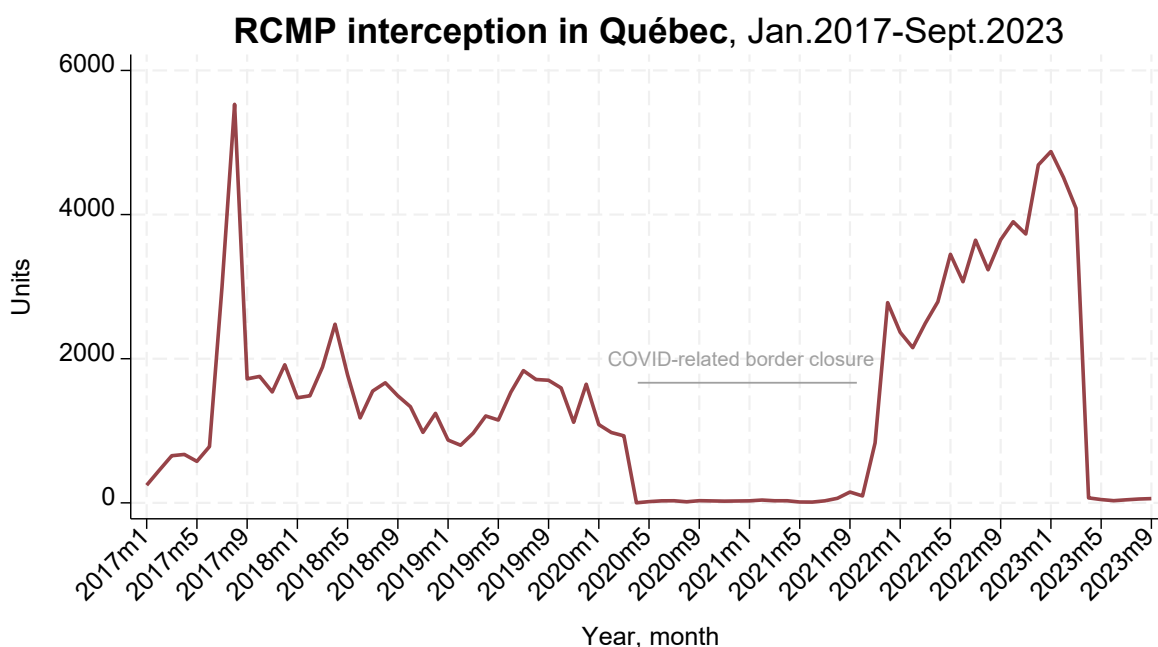
Source: own elaboration on IRCC data

Under the bilateral Safe Third Country Agreement (STCA) passed by the US and Canada in 2002, asylum claimants are required to apply for refugee protection in the first safe country they arrive in. The US and Canada recognizing each other as displaying comparable levels of safety for refugees, they are each entitled to return claimants to the country whose border was crossed first. In its initial form, however, the agreement only applied to those asylum seekers whose claim had been lodged at *official border points,* thus excluding asylum seekers crossing anywhere else along the almost 8,900-kilometer border.

 Renegotiating the STCA has been on the political agenda for several years. The Trudeau government was already exploring possible changes in 2019 (Leuprecht, 2019). But it is over the past year that negotiations between the US and Canada effectively moved forward (under wraps) and concluded in the adoption of an additional protocol to the STCA in March 2023. Up until then, irregularly crossing the border meant the impossibility for Canadian authorities to return asylum seekers to the US: any asylum claim lodged on Canadian soil would be examined by Canadian authorities. The new protocol adopted in March 2023 expands the treaty's application to entries at unofficial border points (i.e. irregular entries such as those at Roxham

Road), allowing Canada to return all asylum seekers crossing the US-Canada border to the US. Whilst this may have responded to the demands of political opponents and parts of the opinion—insofar as RCMP interceptions and claims lodged at land ports of entry plummeted further to the adoption of the protocol—it sparked vivid opposition from human rights defenders, such as the Canadian Council for Refugees and some other 130 Civil Society Organizations, which, together, wrote an open letter to the government inviting Prime Minister Trudeau to reconsider. The letter notably highlights the existence of significant differences in matters of human rights standards between the US and Canada; one supported by the Canadian Federal Court in its decision Canadian Council for Refugees v. Canada. In said decision, the Court held that imprisonment upon return to the US, as well as poor detention conditions, constitute a violation of asylum seekers' dignity and increased the risk of *refoulement* (i.e. sending back an individual who fear persecution without scrutiny of their claim). For reference, the European Court of Human Rights had ruled in a similar manner for similar grounds in the case of asylum seekers in Belgium being returned to Greece in its 2011 case MSS v. Belgium and Greece.

Asylum seekers presenting spontaneous applications on Canadian soil likely require more reception infrastructure and logistics than resettled refugees. They may need housing, healthcare, allowances to meet their basic needs, for an uncertain amount of time—typically the time it takes for the authorities to render a decision on the claim or for an asylum seeker to be financially autonomous (about 24 months for a first instance decision in 2020). Receiving asylum seekers outside the sponsorship program thus necessitates resources be made available on the part of public authorities. While hard to estimate with precision, figures for Germany were deemed to be about € 25 thousand per year (CAD 37 thousand; Wagner and Baumgartner, 2017). Notwithstanding, Canada is party to the Geneva Convention on the Status of Refugees and has a legal (and moral) duty to provide protection to those who need it. This means that the cost of receiving asylum seekers cannot, in any way, outweigh the country's obligation to protect refugees. In this manner, the decision of the Federal Court regarding the likely violation of rights for asylum seekers returned to the US is essential. It substantiates the idea of a trade-off between reducing irregular entries in Canada (which would amount to increased asylum claims in the country; although not all those crossing necessarily claim asylum) and upholding the protection of human rights. The adoption of a protocol to the STCA, whose outcome is the return of asylum seekers to the US where their rights may be violated, seem to indicate where the government's priorities are.

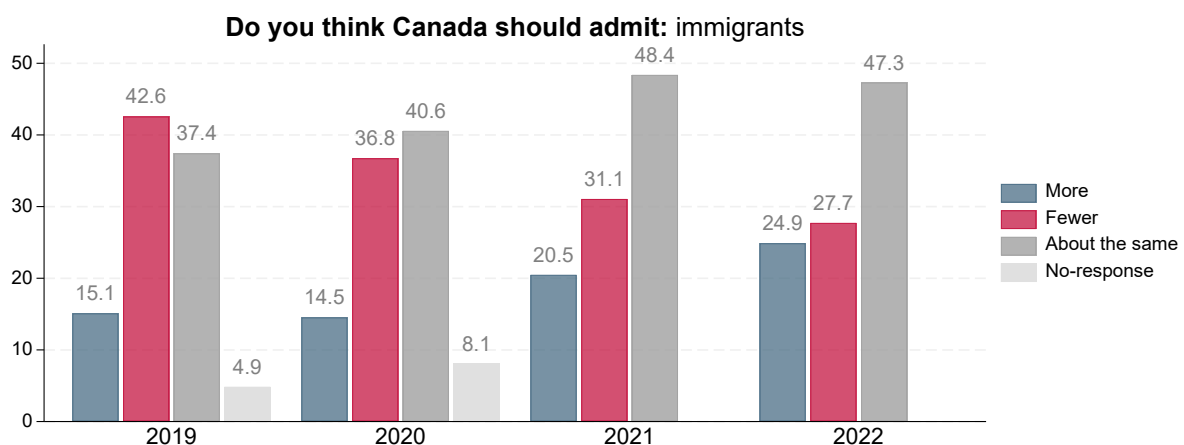## HAVE ASYLUM AND MIGRATION BECOME COMMODITIES IN CANADIAN POLITICS?

The renegotiation of the US-Canada Safe Third Country Agreement to allow the return of asylum seekers to the US feels out of tune with Canada's commitment to resettling recognized refugees in the country. Returning asylum seekers to the US is tantamount to exposing them to lesser human rights standards, notably with regard to detention, thus standing in clear contrast with the country's commitment to international protection. Given the political debates around irregular crossings and the convergence between the government's decision and the demands of the opposition, one might ask whether asylum, and perhaps even immigration, have become political commodities. The discourse held by Legault and Poilievre, but also by the Trudeau government, points in that direction. Most notably, immigration in Quebec—a province in which Trudeau's liberal party has lost hold over the last ten years—has attracted quite some political debate over the years (Bilodeau and Turgeon, 2014).

For an issue to become a political commodity, it has to be politicized; meaning it is both

salient and polarized (Hutter and Gessler, 2019). A salient issue is an issue that is important enough to influence political actors' decisions—in this case, the voters[1]. As classic political scientist Anthony Downs remarked: "people with an intense interest in some policy are more likely to base their votes upon it alone" (Downs 1957: 372). A polarized issue is an issue on which political actors' respective positions are distant from one another (for voters and political parties), generating ideological or policy divides (Hutter et al. 2019). In sum, an issue is politicized if it generates conflict over it in the electorate and in the political system.

Unlike in most of the Western world, immigration is a non-issue in Canada (Banting, 2010). Asylum tends to follow a similar trend, albeit the two should remain distinct for analytical purposes. Immigration (but this goes for asylum too) lacks saliency in Canadian public opinion to be a politicized issue. About 2% of Canadian citizens routinely regard immigration and asylum as an important issue (as recurrently shown in Environics polls). In addition, there is little contention on whether allowing or not further immigration to the country. Canadian citizens tend to support immigration as a factor of economic growth, although said support fluctuates over time (Aytac et al., 2022). Recent cross-section data from the Canadian Election Study and from Democracy Checkup (accessible on Odesi) shows that in 2019, 42.6% of the population thought Canada should admit fewer immigrants, a figure that decreases to 27.2 in 2022.

Do you think Canada should admit: immigrants

|	More	Fewer	About the same	No-response
2019	15.1	42.6	37.4	4.9
2020	14.5	36.8	40.6	8.1
2021	20.5	31.1	48.4	
2022	24.9	27.7	47.3	

Source: own elaboration on Canadian Election Study (CES) 2019; Democracy Checkup (DC) 2020-2022. Weighted estimates
Nota: CES estimates only use highest quality observations. DC response items differ in year 2020 and 2021-2022

When it comes to refugees, however, past research has shown that the opinion is more critical and sees new influxes as a burden for the welfare state (Wallace, 2018). Bearing witness to the phenomenon is the increased contention around refugee matters in the 2015 Federal election, in which Canada's response to the conflict in Syria took central importance (Gravelle, 2018). Recent data nonetheless show a more nuanced picture: the trend follows that of support for immigration, with however higher levels of respondents thinking the country should admit fewer refugees.

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[1] This also applies for political parties, in which case salience is the amount of attention they pay to a specific topic in their political platform.
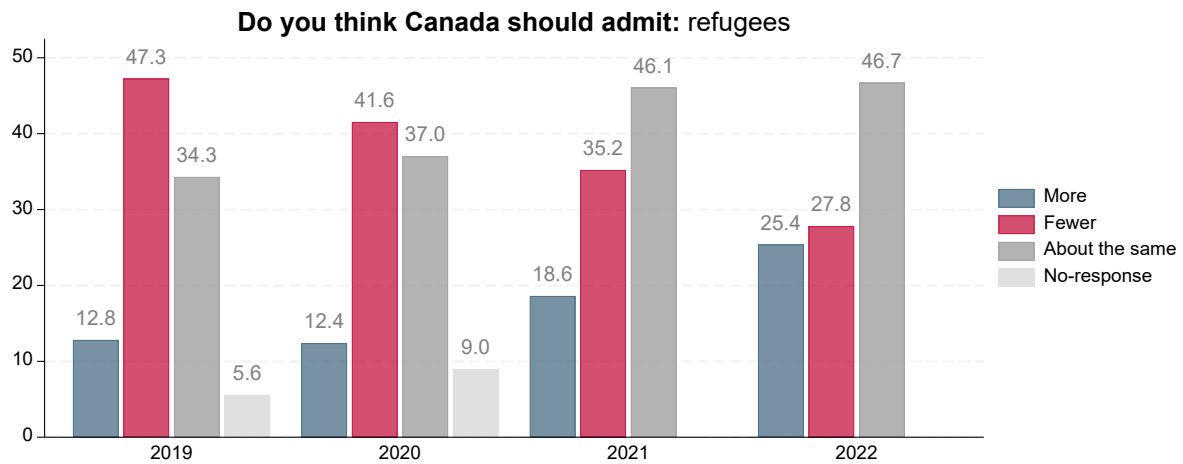
Do you think Canada should admit: refugees

Source: own elaboration on Canadian Election Study (CES) 2019; Democracy Checkup (DC) 2020-2022. Weighted estimates
Nota: CES estimates only use highest quality observations. DC response items differ in year 2020 and 2021-2022

Comparing the timeline of attitudes to immigration and refugees to the timeline of irregular crossings at Roxham Road suggests that the two dynamics may not be correlated. Unfortunately, data on attitudes to immigration and asylum remains scarce, which hinders in-depth analysis. First, it is unclear how the public views the crossings at Roxham Road. Are they construed as refugee flows, as asylum seekers "jumping the queue", or as irregular migrants taking advantage of a loophole to enter Canada? Second, while it seems clear that the support for admission of refugees mentioned above concerns resettlement of already recognized refugees, there is no data on public attitudes to recognizing protection to asylum seekers lodging their claim in Canada. The data shortcomings concerning these two points make it difficult to grasp Canadians' understanding of the event that unfolded at Roxham Road. It also makes it difficult to assess where citizens stand on the issue and, consequently, whether the current government, or the opposition for that matter, is in tune with its voters.

As a rule of thumb, it seems rather safe to assume that public opinion does not condone the disorderly management of human mobility. So, yes, public action was needed. But, of the two (diametrically opposed) choices available—reducing irregular entries by returning people to the US vs. examining asylum claims lodged on Canadian soil—political leaders (in government and in the opposition) have chosen the option least compatible with Canada's long-standing commitment to the cause of refugees, thus casting doubts on the country's ability to maintain its global leadership in international protection matters.

THE AUTHOR

Pierre Van Wolleghem has a Ph.D. in Political Science from the University of Milan, Italy. He currently works as a post-doctoral researcher at the University of Bergen, Norway, where he occupies the function of Executive Scientific Coordinator in the research PROTECT: the right to international protection. Pierre's research interests revolve around migration and social policy, political behaviour, and comparative politics. He is also passionate about research design and quantitative methods.

He has previously worked as a consultant for various public administrations in Europe. He also conducted research for the Italian National Institute for the Analysis of Public Policy, the research branch of the Italian Ministry of Labour and Social Policies.

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