

# ARTICLES

## CULTIVATING CIVIC BELONGING FOR RESETTLED REFUGEES

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## I. INTRODUCTION

Public debates in the United States over immigration continue to rage. Inflamed political rhetoric has returned to the historical trope of maligning the morals, motives, race, and ethnicity of migrants seeking admission.<sup>1</sup> Repeating familiar patterns, policy makers emboldened by anti-immigrant vitriol work to block immigration.<sup>2</sup> Such efforts are directed through the regular channels of policy, regulations, and legislation, as well as through irregular means involving human rights violations in the name of deterrence.<sup>3</sup>

1. President Trump, for example, campaigned on a political platform maligning immigrants. See Michelle Ye Hee Lee, *Donald Trump's False Comments Connecting Mexican Immigrants and Crime*, WASH. POST (July 8, 2015), <https://www.washingtonpost.com/news/fact-checker/wp/2015/07/08/donald-trumps-false-comments-connecting-mexican-immigrants-and-crime/> (discussing Trump's claims that the Mexican government is sending people who are rapists and drug dealers to the United States); see generally BILL ONG HING, *DEFINING AMERICA THROUGH IMMIGRATION POLICY* (2004) (tracing the history of immigration laws that have excluded groups deemed not fit to become Americans at various times, including Chinese, Mexicans, Southern Europeans, Eastern Europeans, Communists, anarchists, Catholics, Jews, Muslims, illiterates, homosexuals, and paupers); George J. Borjas, *Immigration and Welfare Magnets*, 17 J. LAB. ECON. 607 (1999) (maintaining that immigration decisions are made on the basis of social benefits offered); Mae M. Ngai, *The Architecture of Race in American Immigration Law: A Reexamination of the Immigration Act of 1924*, 86 J. AM. HIST. 67 (1999) (reviewing the history of discrimination in immigration law).

2. Examples of this historical pattern include the 1882 Chinese Exclusion Act and the 1924 National Origins Act, both excluding potential immigrants based on race, ethnicity, and national origin. See Chinese Exclusion Act of 1882, Pub. L. No. 47-126, 22 Stat. 58 (1882) (repealed 1943); Immigration Act of 1924, Pub. L. No. 68-139, 43 Stat. 153 (1924).

3. See, e.g., Exec. Order No. 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017) (presenting President Trump's 'travel ban', entitled "Protecting the Nation From Foreign Terrorist Entry into the United States"); Proclamation No. 9983, 85 Fed. Reg. 6699 (Jan. 31, 2020) (extending the 'travel ban' to nationals of six new countries); Inadmissibility on Public Charge Grounds, 84 Fed. Reg. 41292 (Aug. 14, 2019) (to be codified at 8 C.F.R. pts. 103, 212, 213, 214, 245, 248) (creating new regulations related to the public charge rule, barring admission and permanent residency to immigrants who have temporarily used popular government support programs such as food stamps); Proclamation No. 9645, 82 Fed. Reg. 45161 (Sept. 24, 2017) (suspending and limiting the entry into the United States of certain nationals of eight

Efforts to diminish immigration appear to be succeeding. The Department of Homeland Security reported a thirteen percent decrease in the number of newly arrived lawful permanent immigrants during fiscal year 2019, as compared to 2018.<sup>4</sup>

At the same time, many scholars and economists suggest that increasing the number of immigrants in the United States could bolster the economy.<sup>5</sup> In February 2020, even the then-Acting White House Chief of Staff said the country needed more immigrants, reporting that: “We are running out of people to fuel the economic growth.”<sup>6</sup> A disproportionate share of America’s entrepreneurs and inventors are immigrants.<sup>7</sup> This is true even for refugees who arrive in the United States with little to nothing.<sup>8</sup> Moreover, poor immigrant families have greater success in working themselves out of poverty

countries that failed to meet the criteria set forth in Executive Order 13780); Press Release, U.S. Dep’t. of Homeland Sec., Migrant Protection Protocols (Jan. 24, 2019), *available at* <https://www.dhs.gov/news/2019/01/24/migrant-protection-protocols> (forcing asylum seekers who arrive at U.S. ports of entry to wait in Mexico while their asylum cases wind their way through Immigration Courts in the United States); *see also* AMNESTY INTERNATIONAL, USA: ‘YOU DON’T HAVE ANY RIGHTS HERE’: ILLEGAL PUSHBACKS, ARBITRARY DETENTION & ILL-TREATMENT OF ASYLUM-SEEKERS IN THE UNITED STATES (2018), *available at* <https://www.amnesty.org/download/Documents/AMR5191012018ENGLISH.PDF> [<https://perma.cc/JAP3-W2CJ>] (discussing the prolonged detention of people who enter the United States without authorization and the separation of children from the adults with whom they travel; noting that such highly irregular means of deterring immigration have resulted in human rights violations ranging from arbitrary and indefinite detention, to family separation and detention of migrant children without sufficient food, sanitation, supervision, or health care); *UN Rights Chief ‘Appalled’ by US Border Detention Conditions, Says Holding Migrant Children May Violate International Law*, UN NEWS (July 8, 2019), <https://news.un.org/en/story/2019/07/1041991> (quoting United Nations High Commissioner for Human Rights Michelle Bachelet, who stated that: “I am deeply shocked that children are forced to sleep on the floor in overcrowded facilities, without access to adequate healthcare or food, and with poor sanitation conditions.”).

4. U.S. DEP’T OF HOMELAND SEC., LEGAL IMMIGRATION AND ADJUSTMENT OF STATUS REPORT FISCAL YEAR 2019, QUARTER 4 (2017), *available at* <https://www.dhs.gov/immigration-statistics/special-reports/legal-immigration> (relating the numbers of lawful permanent residents as new arrivals, not adjustment of status from within the United States); *see also* Jeanna Smialek & Zolan Kanno-Youngs, *Why a Top Trump Aide Said ‘We Are Desperate’ for More Immigrants*, N.Y. TIMES (Feb. 27, 2020), <https://nyti.ms/3cbRSa3> (reporting that the United States added the fewest number of immigrants in 2019 since the 1980s).

5. *See* DARRELL BRICKER & JOHN IBBITSON, EMPTY PLANET: THE SHOCK OF GLOBAL POPULATION DECLINE 6 (2019) (arguing that, if the United States continues to stem the flow of immigrants it “will decline, in numbers and power and influence and wealth”; thus, every American must choose whether “to support an open, inclusive welcoming society, or to shut the door and wither in isolation”); Austan Goolsbee, *Sharp Cuts in Immigration Threaten U.S. Economy and Innovation*, N.Y. TIMES (Oct. 11, 2019), <https://www.nytimes.com/2019/10/11/business/immigration-cuts-economy.html> (suggesting that the sharp decline in immigration caused by the Trump administration’s immigration restrictions and unwelcoming tone poses a threat to the U.S. economy more serious than any drop in the stock market or lack of consumer confidence).

6. Smialek & Kanno-Youngs, *supra* note 4 (repeating Mick Mulvaney’s comments at a private event, during which he reportedly declared that “[w]e are desperate, desperate for more people”).

7. Sari Pekkala Kerr & William R. Kerr, *Immigrants Play a Disproportionate Role in American Entrepreneurship*, HARV. BUS. REV. (Oct. 3, 2016), <https://hbr.org/2016/10/immigrants-play-a-disproportionate-role-in-american-entrepreneurship> (reporting on the authors’ study of Census Bureau data from 1995 to 2008).

8. *See* Jordan Andrews & Noa Jett, *The Economic Impact of Refugee Admission & Resettlement*, WHARTON PUBLIC POLICY INITIATIVE (Nov. 20, 2018), <https://publicpolicy.wharton.upenn.edu/live/news/2720-the-economic-impact-of-refugee-admission-> (maintaining that refugees have a higher rate of entrepreneurship than non-refugee immigrants and native-born Americans).

than do native-born families.<sup>9</sup> This means that immigrants are contributing to the economy as taxpayers and consumers.<sup>10</sup>

Going beyond simply raising the number of immigrants admitted to the United States, some scholars advocate eradicating border controls entirely.<sup>11</sup> Open borders are said to reflect the equal moral worth of all humans by allowing free movement and equality of opportunity.<sup>12</sup>

Somewhere in the middle of the immigration debate spectrum is a more pragmatic approach that sees migration as unavoidable. Globalization has encouraged the cross-border flow of capital, goods, and services, requiring concurrent human mobility. Moreover, climate change, global conflict, and the widening gap between rich and poor nations inevitably cause people to seek safety and opportunity in other countries. For example, the United Nations High Commissioner for Refugees (UNHCR) reported that nearly eighty million people were forcibly displaced from their homes by the end of 2019.<sup>13</sup>

The initial premise of this Article is aligned with the pragmatic view that migrants will continue to seek entry into the United States, despite the proliferation of deterrence measures. The push factors causing people to leave their homes, coupled with the pull factors of relative safety and opportunity in the United States, simply outweigh U.S. immigration barriers.

A subsequent principle framing this research is the normative claim that the United States should open its doors more widely for refugees, asylees, and others whose basic human rights have been violated in countries of origin that lack effective protection mechanisms. The United States has a legal duty to provide protection to refugees and asylees under domestic and international law.<sup>14</sup> It also has a moral duty to extend that protection to other individuals at risk but who are not protected under the limited definition of “refugee” in the Convention Relating to the Status of Refugees.<sup>15</sup> Finally,

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9. Emily Badger, *Children of Poor Immigrants Rise, Regardless of Where They Come From*, N.Y. TIMES (Oct. 28, 2019), <https://www.nytimes.com/2019/10/28/upshot/immigration-america-rise-poor.html> (reporting on research by economic historians tracking immigrants’ economic success since the 1880s).

10. HARRY J. HOLZER, MIGRATION POLICY INST., IMMIGRATION AND THE U.S. LABOR MARKET: A LOOK AHEAD 8, 11 (2020), *available at* <https://www.migrationpolicy.org/research/immigration-us-labor-market-look-ahead> [<https://perma.cc/RGP8-Z36Fm>] (pointing out that immigrants are “consumers of goods and services”; that “the contribution of immigration to overall GDP growth has been well documented”; and that immigration helps to “finance currently underfunded programs, such as Social Security and Medicare”).

11. *See, e.g.*, Joseph H. Carens, *Aliens and Citizens: The Case for Open Borders*, 49 REV. OF POL. 251, 252 (1987).

12. *Id.* at 252–53.

13. U.N. HIGH COMM’R FOR REFUGEES (UNHCR), GLOBAL TRENDS: FORCED DISPLACEMENT IN 2019, at 2 (2019), *available at* <https://www.unhcr.org/5ee200e37.pdf> [<https://perma.cc/NM7K-UVG8>].

14. United Nations Convention Relating to the Status of Refugees, July 28, 1951, art. 1(A)(2), 189 U.N.T.S. 137 [hereinafter 1951 Refugee Convention], *amended by* United Nations Protocol Relating to the Status of Refugees, Jan. 31, 1967, art. 1(2), 606 U.N.T.S. 267 (entered into force Oct. 4, 1967).

15. *See infra* notes 61–62 and accompanying text. Other scholars have examined the moral responsibility to offer protection to Convention refugees and other threatened individuals, such as Matthew J.

welcoming refugees and other similarly threatened individuals strengthens the nation's economy and enriches our communities.<sup>16</sup>

Accordingly, a myopic focus on immigration barriers is misguided. Instead, attention should be directed at facilitating successful immigrant and refugee integration.

This Article examines one way of supporting successful immigration: encouraging newcomers to invest in a political identity as participants in a democratic society. More specifically, it evaluates the implicit messages about civic belonging conveyed to refugees prior to being resettled. In doing so, it makes a novel contribution to the scholarly literature analyzing connections between immigrants' civic participation and a society's welcome or reception of those newcomers.

The refugee resettlement process provides a distinctive sphere in which to examine the cultivation of civic belonging for three reasons. First, refugees may merit more encouragement to become civic participants than some other immigrant groups. U.S. law opens a pathway to citizenship for refugees admitted for resettlement.<sup>17</sup> But the people accepted into the U.S. refugee admissions program may not have chosen the United States as their preferred location.<sup>18</sup> In addition, refugees may have little experience with civic participation. Most have fled from states with corrupt or weak governance and many have spent years or decades in refugee camps or living on the margins of society in urban environments.<sup>19</sup>

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Gibney and Sarah Song. See Matthew J. Gibney, *Political Theory, Ethics, and Forced Migration*, in THE OXFORD HANDBOOK OF REFUGEE & FORCED MIGRATION STUDIES 48, 51 (Elena Fiddian-Qasmiyeh et al., eds., 2014) (noting that the burden for sheltering refugees unjustly falls disproportionately on countries in the global south); SARAH SONG, IMMIGRATION AND DEMOCRACY 115 (2018) (discussing the idea that a state has a special remedial responsibility to protect people escaping conflict that the state facilitated (citing James Souter, *Towards a Theory of Asylum as Reparation for Past Injustice*, 62 POL. STUD. 326 (2014))).

16. See *Immigrants as Economic Contributors: Refugees Are a Fiscal Success Story for America*, NATIONAL IMMIGRATION FORUM (June 14, 2018), <https://immigrationforum.org/article/immigrants-as-economic-contributors-refugees-are-a-fiscal-success-story-for-america/> (analyzing various studies in concluding that “[r]efugees contribute billions of dollars each year to the economy through consumer spending and business start-ups, resulting in a net positive fiscal impact” and pointing out that refugees help revitalize declining communities); Dany Bahar, *Why Accepting Refugees is a Win-Win-Win Formula*, BROOKINGS (June 19, 2018), <https://www.brookings.edu/blog/up-front/2018/06/19/refugees-are-a-win-win-win-formula-for-economic-development/> (asserting that refugees in the labor force do not harm native-born workers because they have different skill sets and jobs).

17. Refugees admitted to the United States for resettlement must apply to become lawful permanent residents by the expiration of their first year of residence in the United States. 8 U.S.C. § 1159(a) (2006).

18. Resettlement is an option available to a very small portion of the population of refugees. See *infra* note 66 and accompanying text; see also U.N. HIGH COMM’R FOR REFUGEES (UNHCR), *supra* note 13, at 2 (reporting that only 107,800 refugees were resettled in 2019, out of a global refugee population of over 20 million, excluding Palestinian refugees).

19. Most refugees were forced to flee their homes because their government either persecuted them or failed to protect them from persecution. In other words, refugees are often displaced because of a breakdown of the rule of law. See PAULA RUDNICKA & ELIZABETH FERRIS, AMERICAN BAR ASSOCIATION RULE OF LAW INITIATIVE, WHEN PEOPLE FLEE: RULE OF LAW AND FORCED MIGRATION 8, 12 (2018), available at <https://www.dmeforpeace.org/wp-content/uploads/2019/01/aba-rol-i-issue-paper-when-people-flee-rule-of-law-and-forced-migration-0418.pdf> (noting that “ineffective and discriminatory laws, poor governance, and weak accountability mechanisms” in countries can lead to “a lack of the rule of law in countries of origin [that] often contributes to state fragility, which can perpetuate forced migration”).

Second, many policymakers and scholars who advocate for strict immigration restrictions are willing to make a limited exception for refugees. This concession is based on the idea that refugees have a stronger moral claim to immigration than do voluntary migrants.<sup>20</sup> They have fled their countries of origin because their governments failed to protect them from serious rights violations, leaving no recourse other than to seek protection elsewhere.<sup>21</sup> Refugees experiencing prolonged displacement are effectively a stateless population, lacking an opportunity for political membership elsewhere.<sup>22</sup>

Finally, built into the resettlement process is a unique and valuable opportunity to welcome refugees as “Americans in waiting” and sow the seeds of civic belonging.<sup>23</sup> Directly before a refugee departs for the United States, U.S. contractors provide a one- to three-day orientation program to help smooth the transition to a refugee’s new home.

The present study concentrates on how law is framed during these predeparture orientation sessions. Doing so provides insight into the way resettling states introduce newcomers to conceptions of citizenship, rights, and obligations. This evaluation is given more context and relief through comparing how the United States and Canada treat law in orientation programs for refugees being resettled to those countries. More specifically, it critically analyzes and compares the elements of law in predeparture orientation programs for refugees in Jordan accepted for resettlement in Canada and the United States. At the time of this study, Jordan was one of only a few locations worldwide where a number of refugees lived and where both Canada and the United States operated regional centers offering orientation programs.

The research for this Article is based largely on a qualitative analysis of orientation texts conducted within a critical legal theory framework.<sup>24</sup> It is also informed by fieldwork in Amman, Jordan. This Article identifies three

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20. SONG, *supra* note 15, at 113. Other scholars have argued that refugee status is “exceptional” because it departs from the norm that states have complete discretion over who to admit or expel from their territory. See, e.g., David Owen, *In Loco Civitatis: On the Normative Basis of the Institution of Refugeehood and Responsibilities for Refugees*, in *MIGRATION IN POLITICAL THEORY: THE ETHICS OF MOVEMENT AND MEMBERSHIP* 269, 270–71 (Sarah Fine & Lea Ypi, eds., 2016). Even President Trump’s Executive Orders banning the nationals of certain countries from entering the United States incorporated exceptions for refugees after the initial temporary suspension of resettlement. See Memorandum from Rex W. Tillerson, Sec’y of State, et al., to Donald J. Trump, President of the United States, at 2 (Oct. 23, 2017), available at [https://www.dhs.gov/sites/default/files/publications/17\\_1023\\_S1\\_Refugee-Admissions-Program.pdf](https://www.dhs.gov/sites/default/files/publications/17_1023_S1_Refugee-Admissions-Program.pdf) (allowing case-by-case resettlement determinations for nationals of countries identified as posing a high risk to the United States).

21. Gibney, *supra* note 15, at 49–50.

22. The UNHCR generally does not consider refugees and asylum seekers to be stateless because most are considered as nationals of the states from which they fled. U.N. HIGH COMM’R FOR REFUGEES (UNHCR), *supra* note 13, at 76 n.8. *But see* HANNAH ARENDT, *THE ORIGINS OF TOTALITARIANISM* 296 (André Deutsch ed., 1986) (maintaining that even if refugees have citizenship from the countries they left, they are denied political agency).

23. See generally HIROSHI MOTOMURA, *AMERICANS IN WAITING: THE LOST STORY OF IMMIGRATION AND CITIZENSHIP IN THE UNITED STATES* (2006) (maintaining that for much of U.S. immigration history, up until fairly recently, newly-arrived lawful immigrants were presumed to be transitioning to citizenship and considered as Americans in waiting).

24. See, e.g., *infra* note 57 and accompanying text.



general areas of divergence between how law is treated in Canada's orientation compared to the U.S. orientation. These differences implicitly convey divergent messages about participation in a polity.

The written materials examined here differ with regard to the breadth of coverage of legal topics, the depth of coverage as well, and the way in which rules are presented. The Canadian text provides broader coverage of legal topics than does the U.S. text, addressing, for example, more bases of legal protection from discrimination. The Canadian materials also include more depth by explaining rules in greater detail. Some of these explanations simply provide more information or identify individual consequences of a person's action. But certain explanations connect rights with corollary obligations and vice versa, in a way that captures a social contract theory. While the U.S. text does include limited explanations, a *quid pro quo* justification of rules is not found among the orientation topics scrutinized for this study. Finally, Canada's presentation of rules involves participants in the learning process through exercises and questions in a way that seems to acknowledge the agency of refugees as full partners in the learning project. By contrast, the United States provides a hierarchical presentation in which rules are supplied directly in the text.

This Article maintains that Canada's approach to law signals that resettled refugees are new participants in a process of collective self-determination in which members have rights and obligations to one another based on societal relationships.<sup>25</sup> By contrast, the U.S. treatment of law implies that refugees are outsiders who may be prone to criminal behavior.<sup>26</sup> They are subject to the operation of law, rather than being considered new or potential members who invest to the operation of a legal system through enjoying societal benefits and recognizing corollary obligations.

This analysis may not surprise those who follow the Twitter feeds of both Canada's Prime Minister Justin Trudeau and U.S. President Donald Trump. Directly after Trump issued his first Executive Order banning immigration to the United States from seven Muslim-majority nations, Trudeau tweeted: "To those fleeing persecution, terror & war, Canadians will welcome you, regardless of your faith. Diversity is our strength . . ." <sup>27</sup> Trump later suggested broadening this ban, after an undocumented immigrant set off a bomb in London: "The travel ban into the United States should be far larger, tougher and more specific . . ." <sup>28</sup> But these opposing views of immigrants'

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25. SONG, *supra* note 15, at 9.

26. See Exec. Order No. 13769, 82 Fed. Reg. 8977 (Jan. 27, 2017) (prohibiting nationals from seven countries from entering the United States for ninety days, and prohibiting individuals from entering into the United States as refugees for 120 days), *superseded by* Exec. Order No 13780, 82 Fed. Reg. 13209 (Mar. 6, 2017).

27. Justin Trudeau (@JustinTrudeau), TWITTER (Jan. 28, 2017, 3:20 PM), <https://twitter.com/JustinTrudeau/status/825438460265762816>.

28. Donald J. Trump (@realDonaldTrump), TWITTER (Sept. 15, 2017, 6:54 AM), <https://twitter.com/realDonaldTrump/status/908645126146265090>. Journalists analyzing President Trump's tweets after his inauguration have counted 570 tweets attacking immigrants as of October 15, 2019. Michael D. Shear et

value to their adopted nations do not explain the divergence reflected in this analysis of predeparture curricula. The written materials examined in this Article were developed well before the election of both leaders.<sup>29</sup>

Part II of this Article provides the theoretical underpinnings establishing the importance of law to refugee resettlement and a newcomer's sense of civic belonging, demonstrating why receiving states should care about fostering civic participation. Part III addresses the study's methods, including the legitimacy of comparing Canada and the United States. Part IV sets out background information on refugees and resettlement as well as predeparture orientation programs. Part V discusses the treatment of law in the Canadian and U.S. predeparture orientation books. It provides data on the differences in the coverage of legal topics, the explanations of rules, and the degree to which the texts actively engage participants in creating meaning. This Part also suggests theories to explain the areas of divergence and the implications for civic belonging.

## II. THEORETICAL BASES FOR STUDY

Refugees' understanding of law and legal systems in their new countries is important to the processes of resettlement, integration, and fostering civic participation. Welcoming refugees and other resident immigrants into society can help to prevent the creation of a separate caste of permanent outsiders who question or challenge the legitimacy of the state.<sup>30</sup> Liberal democracies have an interest in promoting integration and civic belonging so that newcomers with access to civil and social rights recognize a corollary obligation to contribute to society and eventually participate in the democratic process.<sup>31</sup> As Canada's former Minister of Citizenship and Immigration stated: "Why keep [migrants] as permanent tenants, when they could be encouraged to become landlords of their adopted country?"<sup>32</sup>

An influential theoretical model of refugee integration posits that the entire process relies on a foundation of "citizenship and rights."<sup>33</sup> While the

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al., *How Trump Reshaped the Presidency in Over 11,000 Tweets*, N.Y. TIMES (Nov. 2, 2019), <https://www.nytimes.com/interactive/2019/11/02/us/politics/trump-twitter-presidency.html>.

29. The U.S. text was published in 2012. See *infra* note 84 and accompanying text. The Canadian book was issued in 2013. See *infra* note 86 and accompanying text.

30. See, e.g., MOTOMURA, *supra* note 23, at 173 (quoting Austrian scholar Rainer Bauböck as stating that "[w]here immigrants feel that the receiving state actively discriminates against them or does not protect them against social discrimination they will hardly develop a commitment towards it"). Policy makers view integration as a way to prevent ethnic groups from becoming marginalized and a potentially destabilizing element. See Sergio Marchi, *What is Migration Without Integration?*, 24 REFUGEE SURVEY Q. 22, 25 (2005); see also IRENE BLOEMRAAD, *BECOMING A CITIZEN: INCORPORATING IMMIGRANTS AND REFUGEES IN THE UNITED STATES AND CANADA* 11 (2006) (discussing the risk of challenges to a nation's moral and political legitimacy when a large immigrant population is outside of the political system, failing to naturalize or participate).

31. DAVID MILLER, *STRANGERS IN OUR MIDST: THE POLITICAL PHILOSOPHY OF IMMIGRATION* 112 (2016).

32. Marchi, *supra* note 30, at 23.

33. Alastair Ager & Alison Strang, *Understanding Integration: A Conceptual Framework*, 21 J. OF REFUGEE STUD. 166, 173-77 (2008).



model's authors, Alastair Ager and Alison Strang, eschew an exact definition of integration, they recognize that integration involves a "two-way process of change" with mutual accommodation by refugees and the new communities in which they live.<sup>34</sup> The authors leave the meaning of citizenship and rights open, indicating that the terms are informed by each state's cultural notions of nationhood and identity.<sup>35</sup> The context, however, implies a significance broader than legal citizenship and its associated rights, suggesting instead that it includes the rights and responsibilities that define membership in a polity. Belonging in the polity, then, begins with an articulation of the norms and expectations associated with membership.

Other scholars more clearly connect government policies in receiving newcomers with immigrants' participation in society. For example, in proposing that U.S. immigration law re-introduce the idea of immigration as a transition to citizenship, legal scholar Hiroshi Motomura posits that such a policy would enhance immigrants' civic involvement.<sup>36</sup> Authors T. Alexander Aleinikoff and Rubén Rumbaut conclude that "the way people are invited or welcomed to become members of the society influences their joining behavior which, in turn, influences how the society invites others to join it."<sup>37</sup> This determination followed their finding that children of immigrants were less likely to self-identify as "American" in an environment tainted by anti-immigrant policies.<sup>38</sup> Sociologist Irene Bloemraad compared the political incorporation of immigrants in the United States and Canada, concluding that the "seeds of civic involvement and political engagement lie as much in public decisions as in private actions."<sup>39</sup> She suggests that government actions shape newcomers' understandings of citizenship.<sup>40</sup>

By examining law in predeparture orientations, this study adds to the existing literature on the connection between government policy and immigrant civic participation. The orientation programs that many resettlement states conduct for refugees directly before they move to their new homes is often a refugee's first exposure to the government's articulation of the legal rights and responsibilities in the receiving country. Indeed, the goals of presenting

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34. *Id.* at 177. Hiroshi Motomura's definition of integration is well-stated: it is "a reciprocal process in which immigrants change America as much as America changes them, and yet a process that keeps this nation of immigrants one nation." MOTOMURA, *supra* note 23, at 164.

35. Ager & Strang, *supra* note 33, at 173–74.

36. MOTOMURA, *supra* note 23, at 194.

37. T. Alexander Aleinikoff & Rubén G. Rumbaut, *Terms of Belonging: Are Models of Membership Self-Fulfilling Prophecies?*, 13 GEO. IMMIGR. L.J. 1, 2 (1998). Similarly, Motomura posits that, in light of a history of discrimination in U.S. immigration law, immigrants are "likely to respond to an ambivalent or skeptical welcome with their own reticence." MOTOMURA, *supra* note 23, at 173.

38. Aleinikoff & Rumbaut, *supra* note 37, at 17 (discussing the findings of a survey conducted in 1995, months after California voters passed Proposition 187, which was an unconstitutional effort to deny undocumented immigrants health care, public education, and other services).

39. BLOEMRAAD, *supra* note 30, at 5.

40. *Id.* at 9.

such information, as well as other material, are to construct a foundation for integration and to promote successful resettlement.<sup>41</sup>

### III. METHODOLOGY

This study implements a comparative method to illustrate that similarly situated liberal democracies can adopt distinct approaches to introducing refugees to law, which in turn signal different messages about civic belonging. The general similarities between the United States and Canada provide a foundation for comparing how law is presented in refugee predeparture orientations. For example, both Canada and the United States share a common British history, including legal traditions, and both have inclusive citizenship policies based on birth (*jus soli*), blood (*jus sanguinis*), and a system of naturalization.<sup>42</sup> Both are considered to be nations of immigrants yet share a history of race-based immigrant exclusion.<sup>43</sup> Both have constructed large immigration bureaucracies.<sup>44</sup>

In addition, both Canada and the United States are signatories to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol.<sup>45</sup> As such, both have protected people forcibly displaced through asylum and refugee resettlement.<sup>46</sup> Up until recently, the United States resettled more refugees than nearly all other countries combined.<sup>47</sup> But in 2018, Canada resettled a higher number of refugees than did the United States – just under 30,000, compared to slightly fewer than 23,000 in the United States.<sup>48</sup>

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41. SUSAN FRATZKE & LENA KAINZ, MIGRATION POLICY INST. EUROPE, PREPARING FOR THE UNKNOWN: DESIGNING EFFECTIVE PREDEPARTURE ORIENTATION FOR RESETTLING REFUGEES 4 (2019), available at <https://www.migrationpolicy.org/research/designing-effective-predeparture-orientation-resettling-refugees>.

42. BLOEMRAAD, *supra* note 30, at 8.

43. *Id.* This, notwithstanding the fact that the U.S. Citizenship and Immigration Services removed the phrase “nation of immigrants” from its mission statement in February 22, 2018. See Press Release, U.S. Citizenship and Immigration Servs., USCIS Director L. Francis Cissna on New Agency Mission Statement (Feb. 22, 2018), available at <https://www.uscis.gov/archive/archive-news/uscis-director-l-francis-cissna-new-agency-mission-statement>.

44. BLOEMRAAD, *supra* note 30, at 107; see also Rebecca Hamlin, *International Law and Administrative Insulation: A Comparison of Refugee Status Determination Regimes in the United States, Canada, and Australia*, 37 LAW & SOC. INQ. 933, 938 (2012).

45. See U.N. HIGH COMM’R FOR REFUGEES (UNHCR), THE 1951 CONVENTION RELATED TO THE STATUS OF REFUGEES AND ITS 1967 PROTOCOL, at 4 (2011), available at [<https://perma.cc/JM5W-2RN2>].

46. With respect to Canada, see, e.g., Immigration and Refugee Protection Act (IRPA), S.C. 2001, c. 27 (Can.). With respect to the United States, see, e.g., Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102 (1980) (codified as amended in scattered sections of 8 U.S.C.). However, there are significant variations in refugee resettlement law. For example, Canada authorizes private sponsorship of refugees, an option not available in the United States. MARTIN JONES & SASHA BAGLAY, REFUGEE LAW 253–59 (2017) (explaining the law and process of privately-sponsored refugees in Canada).

47. See U.N. HIGH COMM’R FOR REFUGEES (UNHCR), RESETTLEMENT FACT SHEET 2016 (2016), available at <https://www.unhcr.org/en-us/protection/resettlement/59364f887/resettlement-fact-sheet-2016.html> (reporting that 78,761 refugees departed for resettlement in the United States in 2016, out of a total 126,291 worldwide).

48. Jynnah Radford & Phillip Connor, *Canada Now Leads the World in Refugee Resettlement, Surpassing the U.S.*, PEW RESEARCH CENTER (June 19, 2019), <https://www.pewresearch.org/fact-tank/2019/06/19/canada-now-leads-the-world-in-refugee-resettlement-surpassing-the-u-s/>.

Despite their similarities in other areas, the countries differ in many aspects of immigration policy, including a fundamental framing of the role of immigration in society. Broadly speaking, Canadian policy views immigration as an exercise in nation-building and U.S. policy frames immigration in almost the exact opposite way – a threat to the nation state.<sup>49</sup> Canada emphasizes skills-based immigration and involves provincial governments in immigrant selection.<sup>50</sup> In the United States, traditional immigration policy has tended to favor family ties.<sup>51</sup> Canadian policy also more actively facilitates immigrant incorporation with a bureaucracy and budget that encourages integration.<sup>52</sup> U.S. policy has been less supportive than the Canadian system. At best, the United States has espoused a *laissez faire* approach, leaving immigrants largely to manage integration on their own.<sup>53</sup> More recently, however, U.S. policy has conflated immigrants with criminals or morally-impaired opportunists, a turn that stands to weaken immigrant integration.<sup>54</sup>

Some scholars suggest that divergences in immigration policy affect the different rates of political incorporation generally, and naturalization specifically.<sup>55</sup> While data may not be entirely comparable, it appears that refugees become naturalized citizens at a higher rate in Canada compared to the rate of refugee naturalization in the United States.<sup>56</sup>

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49. BLOEMRAAD, *supra* note 30, at 107–14; *see also* BRICKER & IBBITSON, *supra* note 5, at 5 (2019) (asserting that Canada “views immigration as an economic policy” and “embraces multiculturalism”); JONATHAN TEPPERMAN, *THE FIX: HOW NATIONS SURVIVE AND THRIVE IN A WORLD IN DECLINE* 49, 67 (2016) (maintaining that Canada’s immigration policies have “turned a small, closed, ethnically homogeneous state into a vibrant global powerhouse and one of the most open and successful multicultural nations in the world,” and pointing out that over twenty percent of Canada’s inhabitants are foreign-born). *But see* Johanna Reynolds & Jennifer Hyndman, *A Turn in Canadian Refugee Policy and Practice*, 16 *WHITEHEAD J. DIPL. & INT’L REL.* 41, 42 (2015) (pointing out legislative and policy changes in Canada that introduce a “draconian system to preclude or prevent” the arrival of asylum seekers and provide for the loss of permanent residence status).

50. Andrew Griffith, *Building a Mosaic: The Evolution of Canada’s Approach to Immigrant Integration*, *MIGRATION POLICY INST.* (Nov. 1, 2017), <https://www.migrationpolicy.org/article/building-mosaic-evolution-canadas-approach-immigrant-integration>. Before January 2020, state and local governments had no direct control over immigrant qualifications or destinations within the United States. President Trump’s Executive Order on Enhancing State and Local Involvement in Refugee Resettlement allowed, for the first time, states and localities to prohibit new refugee resettlement. *See* Exec. Order 13888, 84 *Fed. Reg.* 52355 (Sept. 16, 2019).

51. BILL ONG HING ET AL., *IMMIGRATION LAW AND SOCIAL JUSTICE*, at 385 (5th ed. 2018) (pointing out that family-based immigrant visas is “by far the largest preference category in the U.S. immigrant preference system”).

52. BLOEMRAAD, *supra* note 30, at 107 (characterizing the Canadian immigration and naturalization bureaucracy as being more supportive of citizenship and immigrant integration than that in the United States).

53. Megan J. Ballard, *Refugees, Rights, and Responsibilities: Bridging the Integration Gap*, 39 *U. PA. J. INT’L L.* 185, 191 (2017) (arguing that the United States falls short in integrating newly-arrived refugees, opting instead to promote economic self-sufficiency by requiring rapid employment).

54. Rubén G. Rumbaut et al., *Immigration and Crime and the Criminalization of Immigration*, in *ROUTLEDGE INTERNATIONAL HANDBOOK OF MIGRATION STUDIES* 472 (Stephen J. Gold & Stephanie J. Nawyn eds., 2018).

55. BLOEMRAAD, *supra* note 30, at 105–06.

56. *Compare* Garnett Picot & Feng Hou, *Divergent Trends in Citizenship Rates Among Immigrants in Canada and the United States* (Statistics Canada Analytical Studies Branch Research Paper Series, Paper No. 338, 2011), *available at* <https://ssrn.com/abstract=2012582> [<https://perma.cc/MG3N-88DG>] (highlighting that eighty-five percent of refugees entering Canada in the early 1990s became citizens).

This Article explores the role of law in a small slice of refugee resettlement policy – predeparture orientation programs – and posits the possible implications of this experience on fostering civic engagement. It is based primarily on a qualitative text analysis of the English-language version of the books that Canada and the United States developed and provide to refugees during predeparture orientation sessions. This analysis is informed by critical legal theory and its skepticism of a purportedly objective legal text.<sup>57</sup> Orientation materials from both countries present legal rules and their explanations in a neutral or objective manner. The analysis constructed in this Article, however, maintains that rules in orientation materials, as well as the manner in which they are presented, are not neutral. Rather, they reflect sociopolitical assumptions about the expected role of refugees in their new societies.

Research for this Article also includes observations of predeparture orientation sessions held in Amman, Jordan in 2018 for refugees being resettled to Canada and the United States.<sup>58</sup> Finally, interviews with staff in Amman familiar with both predeparture orientation programs add to this analysis.<sup>59</sup> Amman served as the site for this field research because both Canada and the United States operated predeparture orientation programs for refugees there.<sup>60</sup>

#### IV. REFUGEES AND PREDEPARTURE ORIENTATION PROGRAMS

International law established by the 1951 Convention Relating to the Status of Refugees creates a narrow definition of a “refugee.”<sup>61</sup> To qualify, a person must cross an international border, possess a well-founded fear of

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within six to ten years, though it is not clear whether this figure includes only refugees resettled from outside of Canada, or also those who entered Canada and successfully claimed asylum), with U.S. CITIZENSHIP AND IMMIGR. SERVS., TRENDS IN NATURALIZATION RATES: FY 2014 UPDATE (2016), available at <https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports/Trends-in-Naturalization-Rates-FY14-Update.pdf> [<https://perma.cc/SB8Z-FBHC>] (indicating that in the United States, 70.6 percent of refugees admitted in 1994 and asylees who gained lawful permanent residency status that year became citizens by 2004); see also Nadwa Mossaad et al., *Determinants of Refugee Naturalization in the United States*, 115 PROC. NAT'L ACAD. SCI. 9175, 9175–76 (Aug. 26, 2018) (finding that sixty-six percent of refugees who entered the United States between 2000 and 2010 acquired American citizenship by 2015); U.N. HIGH COMM'R FOR REFUGEES (UNHCR), GLOBAL TRENDS: FORCED DISPLACEMENT IN 2015 (2015), available at <http://www.unhcr.org/en-us/statistics/unhcrstats/576408cd7/unhcr-global-trends-2015.html> [<https://perma.cc/LLJ5-R4QW>] (stating that, while data may be incomplete, Canada reported the largest number of naturalized refugees in the world in 2015, with about 25,900, or eighty-one percent, of all naturalized refugees worldwide).

57. James Boyle, *The Politics of Reason: Critical Legal Theory and Local Social Thought*, 133 U. PA. L. REV. 685, 691–95 (1985).

58. Gonzaga Institutional Review Board approval for exempt status was received August 12, 2018. The author observed a one-day “cultural orientation” session for the United States in September 2018, and a two-day “Canada Orientation Abroad” session on October 9 and 10, both through Arabic-language interpreters.

59. This research included four semi-structured interviews: two with people familiar with Canada Orientation Abroad and two with people knowledgeable about the U.S. Cultural Orientation program, between September through December 2018. These interviews were conducted in English.

60. When I submitted the application for a Fulbright grant to conduct this research, the United States was processing more refugees through Amman than it was processing at the time of my research, 18 months later.

61. United Nations Convention Relating to the Status of Refugees, *supra* note 14, at art. 1(A)(2).

persecution based on one of five specified reasons, and be unwilling or unable to return home because of that fear.<sup>62</sup> This treaty also delegates duties to both contracting states and refugees. It requires a refugee to conform to the “laws and regulations” of other countries “in which he finds himself,” and to comply with “measures taken for the maintenance of public order.”<sup>63</sup> It obligates contracting states, “as far as possible,” to “facilitate the assimilation and naturalization of refugees” and to “make every effort to expedite naturalization proceedings and to reduce as far as possible the charges and costs of such proceedings.”<sup>64</sup> The 1951 Convention, its 1967 protocol, or both have been ratified by 148 states, including the United States and Canada.<sup>65</sup>

The United Nations High Commissioner for Refugees (UNHCR) has identified resettlement as one of the three “durable solutions” to the displacement of refugees.<sup>66</sup> Resettlement is offered to less than one percent of the world’s refugee population—traditionally to those identified by the UNHCR as most vulnerable.<sup>67</sup> The United Nations works with nearly thirty resettlement states.<sup>68</sup>

Many countries that receive resettled refugees conduct orientation programs for these displaced individuals and families before they relocate to their new homes.<sup>69</sup> While these predeparture orientation programs differ in various respects, they generally seek to introduce refugees to the knowledge, skills, and attitudes that will ease the difficulties of resettlement and set a foundation for successful integration.<sup>70</sup> Topics also touch on the legal rights and obligations refugees will encounter. Indeed, instruction on law seems to be implicitly required by the Refugee Convention’s duty on refugees to conform to the laws of the country in which they find themselves, coupled with

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62. See *id.* (“[A]ny person who . . . owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.”).

The United Nations Convention Relating to the Status of Refugees was approved in 1951 to protect people who became refugees before January 1, 1951 because of war in Europe. See U.N. HIGH COMM’R FOR REFUGEES (UNHCR), *supra* note 45, at 4. The 1967 Protocol removed the geographical and temporal limits. The United States acceded to the 1967 Protocol in 1968.

63. United Nations Convention Relating to the Status of Refugees, *supra* note 14, at art. 2.

64. *Id.* at art. 34.

65. U.N. HIGH COMM’R FOR REFUGEES (UNHCR), *supra* note 45, at 4.

66. See U.N. HIGH COMM’R FOR REFUGEES (UNHCR), UNHCR RESETTLEMENT HANDBOOK 28 (2011), available at <https://www.unhcr.org/46f7c0ee2.html> [<https://perma.cc/B45F-QS82>]. A durable solution is one that ends displacement and allows refugees to lead normal lives. The other two “durable solutions” include voluntary return to a person’s country of origin and local integration into a first country of asylum. *Id.*

67. MELANIE NEZER, HIAS, RESETTLEMENT AT RISK: MEETING EMERGING CHALLENGES TO REFUGEE RESETTLEMENT IN LOCAL COMMUNITIES 5 (2013), available at [http://www.hias.org/sites/default/files/resettlement\\_at\\_risk\\_1.pdf](http://www.hias.org/sites/default/files/resettlement_at_risk_1.pdf) [<https://perma.cc/XS9Z-PV4L>].

68. See *Information on UNHCR Resettlement*, U.N. HIGH COMM’R FOR REFUGEES (UNHCR), <https://www.unhcr.org/en-us/information-on-unhcr-resettlement.html> (last visited Apr. 20, 2020) (stating that twenty-seven countries accepted refugees in 2018).

69. FRATZKE & KAINZ, *supra* note 41, at 3–4.

70. *Id.* at 7.

its duty on states to facilitate the assimilation and naturalization of refugees.<sup>71</sup>

After the UNHCR has selected a refugee for resettlement and a receiving state has agreed to admit that person, many states provide predeparture orientation programs within two to four weeks before relocation.<sup>72</sup> Programs typically last between three to five days, but they may vary in length according to conditions in the first-asylum country, resettlement country resources, and other factors.<sup>73</sup>

At the time and location of the research for this Article, Canada's program had been shortened from three to two days in order to hold two sessions each work week, with the training room at full capacity.<sup>74</sup> This adaptation accommodated Canada's commitment to increase the number of refugees accepted for resettlement.<sup>75</sup> At the same time, the U.S. program had been condensed from four days to one day.<sup>76</sup> Because of the smaller number of refugees from the Middle East that the Trump Administration was willing to admit, each U.S. orientation group was much smaller than the size for which the full curriculum had been crafted, allowing the program to be delivered more expediently.<sup>77</sup>

Most programs offer information on travelling safely, what to expect on initial arrival, practicalities of life – including common cultural elements and values – in the receiving country, as well as the rights and obligations of refugees in their new homes.<sup>78</sup> Programs also seek to introduce refugees to skills helpful for resettlement, and to build confidence and motivation in contending with the uncertainties and lack of control many refugees will encounter.<sup>79</sup>

The International Organization for Migration (IOM) coordinates predeparture orientation programs for many resettlement states around the world.<sup>80</sup> In Amman, orientation sessions for refugees being resettled to the United States, Spain, the United Kingdom, France, Italy, Australia, Switzerland,

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71. United Nations Convention Relating to the Status of Refugees, *supra* note 14, at arts. 2, 34.

72. FRATZKE & KAINZ, *supra* note 41, at 18.

73. *Id.* at 15–16.

74. Interview with anonymous individual who has worked with Canadian Orientation Abroad, in Amman, Jordan (Oct. 1, 2018) (on file with author) [hereinafter COA Oct. 1 interview] (due to the sensitivity of the topic, this person requested to remain anonymous).

75. *Id.*

76. Interview with anonymous individual who has worked with the U.S. Cultural Orientation, in Amman, Jordan (Sept. 9, 2018) (on file with author) [hereinafter USCO Sept. 9 interview] (due to the sensitivity of the topic, this individual requested to remain anonymous).

77. USCO Sept. 9 interview, *supra* note 76. This individual did not attribute the decrease in the number of refugees being resettled to the United States from the Middle East to the Trump administration's opposition to refugees from Middle Eastern nations. However, the Trump administration's "travel ban" pronouncements reflect such opposition. *See supra* note 3.

78. FRATZKE & KAINZ, *supra* note 41, at 3–4.

79. *Id.* at 3, 13–15.

80. *Id.* at 1. The United States Department of State contracts with IOM in Jordan, but contracts with other organizations in different parts of the globe to deliver cultural orientation programs. Cultural Orientation Resource Center. *See generally Overseas CO Programs*, CULTURAL ORIENTATION RESOURCE CENTER, <http://www.culturalorientation.net/providing-orientation/overseas/programs> (last visited Apr. 14, 2020).



Norway, and Canada were all held in a large IOM compound.<sup>81</sup> The resettlement states with programs operating out of this facility shared training staff, except for Canada and Norway, both of which selected their own trainers.<sup>82</sup>

#### V. CANADIAN AND U.S. PREDEPARTURE ORIENTATION PROGRAMS

Canada and the United States have each produced a book that is provided to refugees during the orientation sessions, translated into the languages spoken by refugees. The same two books are used across the globe (with different language translations) to establish the structure and content for the sessions themselves.<sup>83</sup>

The U.S. materials were created by a nonprofit organization under a grant provided by the U.S. State Department Bureau of Population, Refugees and Migration. That nonprofit, the Center for Applied Linguistics, published the 231-page book *Welcome to the United States: A Guidebook for Refugees* in 2012.<sup>84</sup> It is available online in multiple languages.<sup>85</sup>

The book used by Canada was created by Canada Orientation Abroad (COA) – an organization established in 1998 under the auspices of IOM with funding from Immigration, Refugees, and Citizenship Canada. The 153-page book – *Participant Workbook: A Collection of Pre-Departure Activities for Refugees Bound for Canada* – was issued in 2013, with an Arabic language version produced in 2014.<sup>86</sup>

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81. COA Oct. 1 interview, *supra* note 74; USCO Sept. 9 interview, *supra* note 76. Each country produced its own curriculum, but many shared similar features. Classrooms were country-specific so that maps, photos, and other items could remain in each room. Neither Canada nor the United States compelled attendance at these sessions, but both strongly encouraged and incentivized participation. Both provided on-site child care and reimbursed expenses incurred in travelling to the orientation site. Sometimes only one family member would attend, but staff familiar with both programs reported that nearly every adult scheduled for resettlement participated in the orientation programs. COA Oct. 1 interview, *supra* note 74; USCO Sept. 9 interview, *supra* note 76.

82. COA Oct. 1 interview, *supra* note 74; USCO Sept. 9 interview, *supra* note 76; *see also* Interview with anonymous individual who has worked with U.S. Cultural Orientation, in Amman, Jordan (Sept. 12, 2018) (on file with author) [hereinafter USCO Sept. 12 interview] (due to the sensitivity of the topic, this individual requested to remain anonymous).

83. Content is also derived from updated information provided by the Cultural Orientation Resource Exchange (for the United States) and Canada Orientation Abroad. USCO Sept. 9 interview, *supra* note 76; *see also* Interview with anonymous individual who has worked with Canadian Orientation Abroad, in Amman, Jordan (Oct. 9, 2018) (on file with author) [hereinafter COA Oct. 9 interview] (due to the sensitivity of the topic, this individual requested to remain anonymous).

84. CULTURAL ORIENTATION RESOURCE CENTER, *WELCOME TO THE UNITED STATES: A GUIDEBOOK FOR REFUGEES* (4th ed. 2012) [hereinafter U.S. WELCOME GUIDEBOOK], available at [http://www.culturalorientation.net/content/download/2185/12569/version/1/file/2012-English-Welcome\\_Guide.pdf](http://www.culturalorientation.net/content/download/2185/12569/version/1/file/2012-English-Welcome_Guide.pdf).

85. *See Welcome to the United States Guidebook*, CULTURAL ORIENTATION RESOURCE CENTER, <http://www.culturalorientation.net/resources-for-refugees/welcome-set/welcome-to-the-united-states-guidebook> (last visited Apr. 18, 2020).

86. *See* COA Oct. 9 interview, *supra* note 83; *see also* CANADIAN ORIENTATION ABROAD, COA PARTICIPANT WORKBOOK: A COLLECTION OF PRE-DEPARTURE ACTIVITIES FOR REFUGEES BOUND FOR CANADA, at 1.18 (2014) [hereinafter COA PARTICIPANT WORKBOOK]. These materials are not publicly available, but are on file with the author.

### A. *Broad Distinctions between Canadian and U.S. Orientation Programs*

Both books and orientation sessions cover a breadth of subjects, ranging from travelling on an airplane and dressing for cold weather, to adjusting to a new society, including its laws and legal culture. At first glance, the materials seem similar inasmuch as they appear to cover the same topics. Both books contain chapters on travel, housing, health, education, transportation, employment, laws, cultural adaptation or adjustment, money management, and services. A deeper examination, however, reveals notable differences in program objectives, as well as the content and presentation of legal rules offered in the orientation books. Part V.C. suggests that these distinctions reflect variations in the assumed role of refugees in Canadian and American societies.

To some observers, these differences may not be surprising in light of the distinct objectives of the two programs. Canada specifically refutes the label of “cultural orientation” for its program that the United States readily adopts.<sup>87</sup> Canadians are explicit in their unwillingness to “orient” newcomers to any particular culture.<sup>88</sup> One person who has worked with the U.S. program stated that the goal of the U.S. cultural orientation (USCO) program is to introduce the skills and attitudes for successful resettlement.<sup>89</sup> Among these skills and attitudes, self-sufficiency and self-reliance are considered the most important.<sup>90</sup> On the Canadian side, the goal of orientation is to help refugees create realistic expectations and to dispel misconceptions about life in their new home.<sup>91</sup>

The stated goals for the law component of each program are also somewhat different. From the USCO perspective, training on law is intended to illustrate differences between the law in the United States and laws elsewhere.<sup>92</sup> USCO trainers emphasize the systemic nature of U.S. laws and how law helps people “organize their lives.”<sup>93</sup> Individuals familiar with COA, by contrast, indicate that the most important part of the law segment is not to expressly identify legal rules or emphasize negative restrictions, but rather to address acceptable social behaviors.<sup>94</sup> The idea is to plant a seed that there is

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87. Interview subjects who have worked with the U.S. program readily refer to it as “CO”; see COA Oct. 9 interview, *supra* note 83; USCO Sept. 9 interview, *supra* note 76; USCO Sept. 12 interview, *supra* note 82; see also *About Cultural Orientation*, CULTURAL ORIENTATION RESOURCE EXCHANGE, <https://coresourceexchange.org/about-cultural-orientation/> (last visited Apr. 14, 2020).

88. COA Oct. 9 interview, *supra* note 83. This approach comports with Canada’s official policy of multiculturalism, as expressed in the Canadian Multiculturalism Act and recognized in the Canadian Charter of Rights and Freedoms. See Canadian Multiculturalism Act, R.S.C. 1985, c. 24; Canadian Charter of Rights and Freedoms, Part I of the Constitution Act, 1982, being Schedule B to the Canada Act, 1982, c. 11, § 27 (U.K.).

89. USCO Sept. 9 interview, *supra* note 76.

90. *Id.*

91. COA Oct. 9 interview, *supra* note 83.

92. USCO Sept. 9 interview, *supra* note 76.

93. USCO Sept. 12 interview, *supra* note 82.

94. COA Oct. 9 interview, *supra* note 83.

an established system that is efficient and fair.<sup>95</sup> Another person familiar with COA indicated that the materials on law emphasize that people actually follow legal rules.<sup>96</sup> But, this person added, the introduction to Canadian law is “like putting a bird in a cage” for some refugees displaced from fragile states with no effective rule of law.<sup>97</sup> These refugees perceive law as confining their behavior in unwelcome ways.<sup>98</sup>

In addition to differences in program goals, an analysis of the texts themselves reveal three important distinctions.<sup>99</sup> These three differences are briefly identified here, but analyzed in more depth in Part V.B., below.

First, the coverage of legal topics is different. The U.S. book addresses a narrower range and includes more repetition than does the Canadian text. Second, the depth of coverage of the topics is dissimilar. Both countries include limited explanations, adding information related to rules as well as the individual consequences of violating certain rules. Canadian materials, however, provide more explanations. Moreover, the Canadian text includes a unique type of explanation that the U.S. materials do not. Some of the Canadian rules are followed by *quid pro quo* justifications, presenting rules as an exchange of obligations or as restrictions imposed to gain a certain benefit, or vice versa. Finally, the format of how legal rules (and other material) are addressed is very distinctive. The U.S. book sets out rule statements in the main body of the text. Canada presents exercises for participants to consider, and generally places rules within explanations and answers at the end of each chapter. The remainder of this Article explores these three areas of difference in more detail, then offers possible implications of and explanations for these differences. In short, these differences reflect disparities in how Canada and the United States expect refugees to join and participate in society.

### B. *Comparison of Specific Legal Rules in Each Book*

This detailed comparison examines three substantive legal topics presented in each text:<sup>100</sup> rights and equality; child abuse and neglect; and drugs, alcohol, and tobacco regulations. More than other legal subjects addressed in the curricula, these three topics represent an intersection of areas of focus in both books and areas in which the laws in Canada and the United States are roughly similar.<sup>101</sup> The discussion of each substantive topic is organized

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95. *Id.*

96. COA Oct. 1 interview, *supra* note 74.

97. *Id.*

98. *Id.*

99. Text analysis was performed manually in order to account for nuanced differences in language and format, rather than with the assistance of software.

100. These topics are found in various parts of each text, not only the chapters on law.

101. This study does not examine areas of law presented in the orientation books in which there is significant divergence between Canada and the United States, such as taxation and immigration rules.

around the key differences in the coverage of legal rules, the explanations that accompany them, and the presentation and format of the rules.

### 1. *Rights and Equality*

Canada's text provides more examples of anti-discrimination protections and addresses a larger number of specific rights than does the U.S. book. It also includes over five times as many explanations of the rules than are found in the U.S. materials. Some of Canada's explanations reflect a qualitative difference by connecting obligations to various rights, an approach unique to Canada's orientation materials. Almost all of Canada's rules are conveyed to participants through interactive exercises, whereas the U.S. materials present most rights and equality rules directly in the main body of the text.

#### *a. Coverage*

The Canadian materials include twenty-four clear statements regarding legal rights related to equality.<sup>102</sup> (Figure 1, below, summarizes the various numerical counts presented in this Part.) The United States includes fifteen clear statements of such rights.<sup>103</sup> These assertions reflect general representations (“[a]s a refugee, you have the same basic rights as everyone else living in the United States”),<sup>104</sup> as well as specific rules (“discrimination based on ethnicity is illegal in Canada”).<sup>105</sup>

Both books make particular mention of workplace equality, religious freedom, and protections for persons with disabilities. But Canada's treatment of these areas is broader. For example, Canada addresses religious freedom in seven instances involving scenarios that include prayer, head scarves at school and work, and veils covering a woman's head and face.<sup>106</sup> The United States, on the other hand, mentions rights related to religious beliefs three times, but each instance portrays the same scenario: services provided to refugees by religiously-based organizations.<sup>107</sup>

Regarding mentions of the right to work without discrimination, both books instruct that employers cannot discriminate based on a list of protected characteristics.<sup>108</sup> Canada includes three variations of such information,

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102. This count for Canada does not include statements related to multiculturalism. It also omits fuzier statements, such as “[i]n Canada, women are considered equals with men and can work freely” that do not clearly convey a rule. COA PARTICIPANT WORKBOOK, *supra* note 86, at 8.3.

103. The U.S. tally counts as one reference each instance in which the same, or substantially the same statement is presented twice: highlighted in the margin and repeated in the text.

104. U.S. WELCOME GUIDEBOOK, *supra* note 84, at 158.

105. COA PARTICIPANT WORKBOOK, *supra* note 86, at 1.18.

106. *Id.* at 3.10, 6.5, 8.29, 8.30, 9.14, 9.23, 11.3.

107. U.S. WELCOME GUIDEBOOK, *supra* note 84, at 53, 72, 78. Coverage of religious freedom was broader within the actual session observed. The instructor of the USCO session mentioned that Muslim women can wear scarves and go to a mosque.

108. COA PARTICIPANT WORKBOOK, *supra* note 86, at 8.31; U.S. WELCOME GUIDEBOOK, *supra* note 84, at 180.

while the United States includes only a single statement.<sup>109</sup> In addition to its three statements identifying a list of people protected from workplace discrimination, Canada also uses longer hypothetical employment scenarios to illustrate illegal discrimination based a particular characteristic, including: sex (one mention); age (one mention); sexual orientation (one mention), and disability (two mentions).<sup>110</sup>

The United States specifically addresses two rights not mentioned by Canada: equal access to education (regardless of “ability, sex, age, race, religion, sexual orientation, or social class”)<sup>111</sup> and to housing (irrespective of “ethnicity, religion, or country of origin”).<sup>112</sup> Canada, however, includes separate statements on five rights topics not mentioned specifically in the U.S. materials: race (“[t]here are laws against racism”);<sup>113</sup> ethnicity (“discrimination based on ethnicity is illegal”);<sup>114</sup> freedom of expression (“[i]f you do not like what the government is doing, you are free to express it”);<sup>115</sup> age (“it is against the law for an employer to discriminate against him . . . because of his age”);<sup>116</sup> and sexual orientation (true/false question: “you can be refused a job or an apartment if you are gay or lesbian”).<sup>117</sup>

#### *b. Explanations*

The Canadian book includes eleven explanations of the rules it enunciates. Six instances present additional information. For example, following a statement on the legal right of people of the same sex to marry: “This is still a relatively new concept in Canada and not all people may be accepting of it.”<sup>118</sup> Five additional explanations include quid pro quo statements associated with certain rights. For example: “As a permanent resident of Canada, you will enjoy many rights; however these rights come with responsibilities.”<sup>119</sup> Another example provides that “[t]here are also human rights laws that protect employees from unfair treatment by employers based on gender, age, race, religion or disability. It is your responsibility to learn these laws!”<sup>120</sup>

109. COA PARTICIPANT WORKBOOK, *supra* note 86, at 8.3, 8.4, 8.6, 8.31, 8.39; U.S. WELCOME GUIDEBOOK, *supra* note 84, at 180.

110. COA PARTICIPANT WORKBOOK, *supra* note 86, at 5.6, 8.27, 8.29, 8.4, 9.4 (discussing sex, age, sexual orientation, and disability).

111. U.S. WELCOME GUIDEBOOK, *supra* note 84, at 196. The U.S. materials further use education to illustrate illegal discrimination based on disability. *Id.* at 199.

112. *Id.* at 62. Canada only mentions that gays and lesbians are protected from housing discrimination. COA PARTICIPANT WORKBOOK, *supra* note 86, at 11.4.

113. COA PARTICIPANT WORKBOOK, *supra* note 86, at 9.22.

114. *Id.* at 1.18.

115. *Id.* at 11.3, 11.4.

116. *Id.* at 8.27.

117. *Id.* at 11.4.

118. *Id.* at 9.23.

119. *Id.* at 11.7. This instruction introduced an activity asking participants to match a list of rights with a corresponding responsibility from a set of responsibilities provided. For example, “Basic Human Rights” corresponds with the responsibility to “respect the rights of others.” *Id.* at 11.10. The activity includes twelve rights and corollary responsibilities. This study counts the activity as one instance of a reciprocal statement in the tally summarized in Figure 1, *infra*.

120. *Id.* at 8.6.

These statements expressly tie fair treatment associated with membership in Canadian society with an expectation that refugees will make some kind of contribution or effort.

The United States explanations are much more limited. These only include two incidents of additional information (following a statement of nondiscrimination in the workplace: “However, some jobs are only open to U.S. citizens”; and, after identifying prohibited discrimination, an instruction that “you have the right to seek legal action”).<sup>121</sup> There are no indications of reciprocal rights or obligations.

### *c. Presentation*

The Canadian book invites participants to engage with the topic through exercises rather than directly presenting rules. It offers only two of twenty-four rules regarding equality and rights in affirmative statements in the body of the text. The rest of the instances presenting rights or equality statements are framed as answers to, or explanations of, various activities, questions, and hypotheticals. For example, in the chapter addressing employment, an exercise asks: “Who works in Canada?” and presents sixteen photographs of people. Among them are a woman in a head scarf, a darker-skinned man, an older man, a sight-impaired woman with a white cane, and a man in a wheelchair.<sup>122</sup> The answer at the end of the chapter provides that: “All of these people are allowed to work in Canada!” and includes the instruction that “[i]n Canada a person cannot be discriminated against because of: age, gender, sexual orientation, intellectual disability, skin colour, religion, language, or ethnicity. Of course, the person needs the skills to do the job!”<sup>123</sup>

The U.S. book delivers rules directly. It characterizes ten of fifteen statements regarding rights or equality as rules in the main body of the text. Three additional statements are framed as answers to true/false questions in an appendix of answers at the end of the book. The remaining two incidents are raised in hypothetical problems designed to indicate discrimination occurred.<sup>124</sup>

## *2. Child Abuse and Neglect*

Canadian orientation materials incorporate twice as many examples of acts that constitute child abuse and neglect compared to the U.S. materials. Canada’s text also explains rules nearly twice as frequently as does the U.S. book. As with the preceding substantive topic, all of Canada’s rules and

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121. U.S. WELCOME GUIDEBOOK, *supra* note 84, at 146, 180.

122. COA PARTICIPANT WORKBOOK, *supra* note 86, at 8.4.

123. *Id.* at 8.31.

124. See U.S. WELCOME GUIDEBOOK, *supra* note 84, at 147 (containing a hypothetical in which a landlord refuses to rent to a refugee because she is a refugee; although no answer or discussion is provided, a question asks: “Why is this discrimination?”).



explanations are delivered through exercises, while most of the U.S. rules are presented as statements.

### *a. Coverage*

Similar to the broader coverage Canada offers on rights and equality, its orientation book provides more extensive rules proscribing child neglect and abuse than does the U.S. text. Canada includes nine different statements and illustrations regarding child abuse and neglect, while the United States includes five references. Specific graphic representations and text in the Canadian materials cover hitting with an object; spanking (two instances); slapping; child marriage; child labor; leaving children home alone; female circumcision; and beating or neglect.<sup>125</sup> These are presented as exercises with images and captions in which participants are asked about whether an activity is legal or illegal in Canada or about whether the method of discipline is one that the participant has used. Specific coverage in the U.S. book is more limited and includes beating, leaving children home alone (two instances), sex with minors/sexual abuse, and child labor.<sup>126</sup>

### *b. Explanations*

Both countries' coverage of child abuse and neglect include the consequences of proscribed actions and additional information expanding on a rule provided. Canada presents more of these explanatory references. Of Canada's nine examples explaining rules on child abuse and neglect, five offer additional information and three set forth consequences.<sup>127</sup> One instance fits loosely as a reciprocity statement, informing parents that they may leave some children home alone, but it is "the parents' responsibility to ensure the child is capable of being home alone safely and comfortably."<sup>128</sup> Out of the five different explanations included in the U.S. materials, four outline consequences of proscribed behavior and one provides additional information.<sup>129</sup>

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125. COA PARTICIPANT WORKBOOK, *supra* note 86, at 9.15–9.16, 11.5, 11.9.

126. U.S. WELCOME GUIDEBOOK, *supra* note 84, at 149, 151, 165.

127. See COA PARTICIPANT WORKBOOK, *supra* note 86, at 11.6 (containing an activity comparing laws in Canada to laws in a participant's country of origin in which a photo depicts a child alone in a kitchen, with the caption: "Parents leaving a child under the age of 12 alone"); see also *id.* at 11.9 (containing answers to the aforementioned activity which add that leaving a child under the age of 12 alone "depends on the province/territory"; as, in "[i]n some jurisdictions, the age is as low as 10"; and, also add that it "depends on how long the child is left alone and how mature the child is," but that "[i]t is the parents' responsibility to ensure the child is capable of being home alone safely and comfortably" "[e]ven though the child may be of legal age to be home alone").

128. *Id.* at 11.9.

129. See, e.g., U.S. WELCOME GUIDEBOOK, *supra* note 84, at 149 (noting that "[i]t is illegal to leave children without adult supervision" as, although "very few states have set a legal age that a child can be left home alone, children around the age of 12 and under should not be left alone" since "[l]eaving a child unattended is considered neglect and can lead to the removal of the child by a child protection agency"; and also noting that "[i]n some countries, older children take care of younger children, but in the United States, young children must be supervised by an adult").

Among the three topics this study considers in depth, the United States offers proportionately more explanations of child abuse and neglect rules (five statements, four explanations) than it does for the other two topics – rights and equality (fifteen statements, two explanations) and drugs, alcohol, and tobacco (sixteen statements, four explanations).

### *c. Presentation*

All of Canada's information on child abuse and neglect is set forth as answers and explanations to exercises. Four of the five U.S. statements are presented as rules in the text, while one is framed as a hypothetical.<sup>130</sup>

### 3. *Drugs / Alcohol / Tobacco*

The coverage patterns for rules regarding these controlled substances are somewhat reversed from the prior two substantive areas of law. While the two countries mention roughly the same prohibitions, the U.S. book adopts repetition and states these rules over three times more frequently than does Canada's book. Most of Canada's references to rules include explanations, whereas only a quarter of the U.S. references include explanations. All of Canada's discussion of these rules occurs in the context of exercises or hypotheticals. Most of the U.S. rules are offered as direct assertions.

### *a. Coverage*

Both countries' materials generally cover the same topics related to drugs, alcohol, and tobacco. This coverage includes: the legal drinking age; prohibitions on drinking and driving; warnings against bringing drugs into the country; the illegality of certain drugs; and restrictions on smoking.<sup>131</sup> Canada's book includes five statements. Two of these are variations of the same rule prohibiting driving while intoxicated.<sup>132</sup> The U.S. book includes sixteen incidents, one more than it includes on rights and equality. But thirteen of these references restate the same three basic rules: admonishments to not drink and drive, pack drugs in luggage, or smoke in prohibited locations.<sup>133</sup>

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130. See *id.* at 151 (containing a hypothetical in which a mother leaves her children alone while she runs an errand; although no answer or discussion is provided, a question asks: "What does [she] need to do to follow U.S. laws about child care and neglect?").

131. COA PARTICIPANT WORKBOOK, *supra* note 86, at 2.11, 2.3–5, 6.12, 6.5, 7.5, 7.8 (discussing the minimum legal drinking age, drinking and driving, illegal drugs, packing drugs in luggage, and smoking laws); U.S. WELCOME GUIDEBOOK, *supra* note 84, at 21, 33, 35, 42, 87, 89, 148, 151, 158 (same).

132. COA PARTICIPANT WORKBOOK, *supra* note 86, at 7.5, 7.8.

133. The U.S. materials repeat rules against drinking and driving five times, rules against packing drugs in luggage four times, and restrictions on smoking locations four times. See U.S. WELCOME GUIDEBOOK, *supra* note 84, at 21, 33, 35, 42, 87, 89, 148, 151, 158 (discussing the minimum legal drinking age, drinking and driving, illegal drugs, packing drugs, and smoking laws).

### *b. Explanations*

Four of Canada's five references to drug, alcohol, and tobacco rules include explanations.<sup>134</sup> Three explanations add more detailed information about the rules, and one offers consequences of drunk driving.<sup>135</sup> Four of the sixteen references in the U.S. materials include explanations. All of these references state the possible consequences of violating a rule.<sup>136</sup>

### *c. Presentation*

Each of Canada's five references follow an exercise or hypothetical, where the participant works through a scenario to reach his or her own conclusion. Actual statements of the law are at the end of the chapter in answers and explanations.

Eleven of the sixteen incidents in the U.S. book are presented as rule statements in the main text. Three occurrences present the law by answering questions in an appendix at the end of the book. The remaining two references are incorporated into one activity and one hypothetical, both of which imply an illegal activity without an express rule.

FIGURE 1

	Canada		U.S.	
	Total number of references	Number w/ explanations*	Total number of references	Number w/ explanations
Rights and equality	24	11 6 – information 5 – reciprocity	15	2 2 – information
Child abuse/neglect	9	7 5 – information 3 – consequences 1 – reciprocity	5	4 2 – information 3 – consequences
Drugs/alcohol/tobacco	5	4 1 – consequences 3 – information	16	4 4 – consequences

\* "Explanations" include information, consequences, and statements of reciprocity.

### *C. Exploring Divergences and Implications for Civic Belonging*

The data presented above offer a glimpse at the differences in how Canada and the United States introduce law to refugees on their way to resettlement. This snapshot reveals implied messages about a refugee's expected place in

134. COA PARTICIPANT WORKBOOK, *supra* note 86, at 6.12, 7.8.

135. For example: "Driving while drunk (intoxicated by alcohol) is a very serious offence in Canada. It can result in the suspension of your driver's licen[s]e, heavy fines and/or imprisonment." *Id.* at 11.9.

136. See U.S. WELCOME GUIDEBOOK, *supra* note 84, at 87 (noting, for example, that "[i]f you break a law, you may lose your license" and that "if you are arrested for driving under the influence of alcohol, you may lose your driver's license" or "you may also pay a large fine, or even spend time in jail").

society. Before further exploring how the discourse in these orientation primers signal expectations about a refugee's role, it should be noted that this introduction through predeparture orientation sessions and materials does not occur in a vacuum. Both countries offer additional information and services to refugees when they arrive in their new countries.<sup>137</sup> Consequently, some of the differences apparent in this initial predeparture stage may be counterbalanced by later, in-country elaborations on law. Nonetheless, the information on law that refugees gain from predeparture orientations stands alone as a refugee's initial encounter with official representations of law.

Canada's predeparture orientation materials address a broader array of rules in the substantive areas selected for focus in this study, including more nuanced discussions explaining these rules. Canada's curriculum also frames the materials as collaborative activities through which participants themselves generate knowledge.

Canada's breath of coverage stands out when considering the balance between criminal rules compared to statements on rights and equality. The Canadian book includes nearly twice as many declarations regarding rights and equality as it does on criminal prohibitions (twenty-four compared to fourteen). This could be aimed at the concern that refugees have long been denied rights or equality. The intent behind this balance might also be to speak to those fearful of the "confines" of law.<sup>138</sup> Regardless of the policy informing this choice, the balance favoring rights and equality communicates that refugees are joining Canadian society as members with many of the rights enjoyed by all residents.

The inclusion in Canada's materials of explanations might similarly recognize that refugees can arrive predisposed to distrust positive law. Regardless of whether a newcomer maintains any such concerns, the explanations can contribute to a foundation for integration. As Ager and Strang emphasize, integration depends on an understanding of rights and citizenship.<sup>139</sup> Explanations that expand on the application or consequences of rules may well facilitate an understanding of rights and obligations.

Notably, some of the explanations in the Canadian materials examined in this study describe societal trade-offs associated with the rules.<sup>140</sup> This

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137. The U.S. Department of State offers a brief description of post-arrival services on its website. See *U.S. Refugee Admissions Program: Reception and Placement*, U.S. DEP'T OF STATE, <https://www.state.gov/refugee-admissions/reception-and-placement/> (last visited Apr. 12, 2020). Support for resettled refugees in Canada depends, in part, on whether a refugee is privately sponsored or assisted by the Government of Canada. The Canadian governmental agency—Immigration, Refugees and Citizenship Canada—provides information on its website. See *Find Services for Refugees in Canada*, GOV'T OF CANADA, <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/help-within-canada.html> (last modified Apr. 3, 2017).

138. See *supra* text accompanying note 97.

139. See *supra* text accompanying note 33.

140. This pattern holds true with other legal rules presented in the COA Workbook not included in this study. See COA PARTICIPANT WORKBOOK, *supra* note 86, at 8.26 (noting, in relation to a discussion on paying taxes, that "[t]his money is used to provide the many services that Canadians enjoy, including free education, healthcare, social welfare, etc.").

structuring signals the notion that refugees are active participants in a social sphere in which there is a measure of reciprocity between the individual and society with regard to rights and obligations.

Canada's broad coverage of rights and equality topics, and inclusion of explanations that tend to locate newcomers as members of the polity, may further advance integration. Other researchers have suggested that "cultural and values instruction is most effective in promoting integration when it emphasi[z]es the role of values in shaping the behaviour of society as a whole, rather than instructing migrants and refugees that they must change their beliefs and behaviours to conform."<sup>141</sup> The manager of Canada's pre-departure orientation program stated that COA recognizes this by addressing "the 'laws and values' that govern Canadian society, rather than 'culture', and emphasi[z]e that these principles apply to everyone, not just to newcomers."<sup>142</sup>

The balance of coverage in the U.S. curriculum tilts towards rules identifying criminal infractions. For the topics scrutinized in this study, the U.S. materials include twenty-two references to criminal prohibitions, seven more references than those related to rights and equality. It is also here that the U.S. curriculum repeats rules. This emphasis may reflect the view that admitted refugees present a heightened risk of violating criminal law norms, regardless of data showing that refugees and other immigrants are less likely to commit crimes than is the U.S.-born population.<sup>143</sup>

The slant favoring criminal rules could also indicate concern that refugees generally arrive from places where the rule of law is weak or absent and therefore newcomers might not be familiar with offenses meriting state prosecution and punishment. And the repetition could be said to add clarity. Nonetheless, if the policy behind emphasizing criminal rules rests primarily on the possibility that refugees may be unacquainted with the rule of law, the same unfamiliarity would apply to rights. In other words, refugees presumably would be similarly unaware of the civil rights afforded to them in the United States. As such, inclusion of more rules and explanations of civil rights, and repetition of those rules would be of equal value. However, some observers might suggest that the balance weighing towards criminal rules could benefit refugees living under the current aggressive deportation policies, where even minor infractions can result in removal.

Regardless of the rationale underlying the relative importance placed on criminal rules, this emphasis might signal to newcomers that they are joining

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141. FRATZKE & KAINZ, *supra* note 41, at 11.

142. *Id.* at 11–12 (quoting Louise Bélanger, Global Program Manager, Canadian Orientation Abroad, International Organization for Migration).

143. Alex Nowrasteh, *Little National Security Benefit to Trump's Executive Order on Immigration*, CATO INST. (Jan. 25, 2017), <https://www.cato.org/blog/little-national-security-benefit-trumps-executive-order-immigration> (explaining, based on low numbers of foreigners convicted of terrorism-related offenses on U.S. soil, why President Trump's "travel ban" Executive Orders will not actually decrease the likelihood of attacks or increase national security).

a society that expects immigrants to have criminal proclivities in need of restraint. In other words, this material might convey that refugees are not joining as potential contributors to the collective, but rather as threats to the collective's security.

Such a view of refugees is not surprising. It is consistent with decades of immigration law and policy that identify a growing number of minor offenses as violations that trigger deportation of non-citizens.<sup>144</sup>

In addition to heavy coverage of criminal rules, the U.S. curriculum includes little additional information explaining the rules, and completely lacks any notion of reciprocity related to obligations or rights. This structure indicates that compliance is valued more than understanding, participation, or legitimacy.

Finally, the straightforward rule delivery in the U.S. materials reflects a hierarchical presentation where the author is the source of knowledge. This streamlined approach may stem from a recognition that newcomers have much to learn in their first few months in the United States. The simplicity of direct rule statements might allow refugees to focus on other parts of the material. As noted earlier, however, this delivery discounts contributions a refugee participant can lend to the learning process.

## VI. CONCLUSION

Refugees and immigrants will continue to enter the United States despite anti-immigrant policies and sentiment. Promotion of successful integration is in the state's best interest, at the very least, to avoid disaffected and disenfranchised immigrant communities. Successful integration rests on a foundation of rights and citizenship. Newcomers should be introduced to the rights and responsibilities associated with membership in a polity in a way that promotes investment in belonging.

This analysis of predeparture orientation curricula sheds light on how Canada and the United States can set the stage for civic incorporation of resettled refugees. The content and structure of Canada's materials imply that resettled refugees operate with agency in a complex social context in a manner that seems likely to foster civic participation. As such, it would be consistent with Canada's philosophical orientation towards immigration as a matter of state-building. While the U.S. security and compliance approach

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144. Alan A. Aja & Alejandra Marchevsky, *How Immigrants Became Criminals*, BOSTON REV. (Mar. 17, 2007), <http://bostonreview.net/politics/alan-j-aja-alejandra-marchevsky-how-immigrants-became-criminals> (maintaining that immigration policymakers have expanded the definition of "criminal" since the 1990s to include violations previously civil in nature and resulting in unprecedented numbers of deportations).



does not preclude a newly-arrived refugee from contributing to the civic life of the nation, it seems ill-suited to encourage it. Rather, orientation materials that can be interpreted to imply refugees are prone to criminal behavior and not ready to participate in a collective learning process may send a message of exclusion. Such a message is consistent with the prevailing U.S. treatment of new immigrants as outsiders who earn civic belonging only through demonstrating rule compliance and self-sufficiency.