**Welfare Inclusion vs Exclusion: The Impact of Forced Migrant Categorization on Welfare Access and Integration**

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**Abstract**

The 1951 United Nations (UN) Refugee Convention and its 1967 Protocol define what it means to be a refugee and offer protection for those who fall under that category. Since then, however, new legal categorizations have been constructed for forced migrants, which offer time-limited protection with no pathway to permanent residency or citizenship. This paper explores the impact of legal categorization of forced migrants on social welfare access in the U.S., focusing on changes made to the welfare state in the post-1980 Refugee Act era and four humanitarian protection statuses: Temporary Protected Status, Humanitarian Parole, Asylum Seekers, and Refugees/Asylees. Specifically, we focus on the historical context of humanitarian protection statuses, and the legislative acts that constructed these statues, to understand the social, economic, and political drivers associated with the categorization of forced migrants. We conclude that immigration statuses, in intersection with social welfare policy, operate as a tool to either include or exclude desirable or undesirable immigrants. For those working in social services and those engaged with immigrant communities, understanding how immigration categories and social welfare policy operates as a tool of exclusion has important practical considerations.

**Introduction**

A devastating consequence of war, violence, and turmoil is the forced movement of people. In recent years, the war in Syria, the Taliban takeover of Afghanistan, and Russia’s invasion of Ukraine, amongst other situations, illuminate the plight of those forced to leave their country. After embarking upon transnational migration, people must figure out how to live and sustain themselves in a new country. In most cases, forced migrants need institutional support to adjust to their new situation, and quite often, this support includes social welfare programs. However, access to social welfare provided by federal and state governments is often dependent on the legal immigration status an individual holds. Access to welfare services is not straightforward for people who are not citizens, as there is a significant variance in social welfare access between legal categories. This differential is exacerbated by the fact that immigration categories are not perfectly representative of peoples’ lived experiences. Rather, they are constructs created based on policy interests, priorities, and values of the nation-state. In this paper, we examine the intersection of immigration categories and social welfare in the United States context. Through this exploration, we hope to increase understanding of how these categories were developed in the United States and how a tiered system for welfare was created for those residing here.

There is a lacuna of research that examines how the intersection of legal categorization and the welfare state impacts the lives of immigrants and refugees. Where this literature does exist, much of it is centered in Europe and points to a reduction in welfare rights for migrants (e.g., Dwyer, 2005; Dwyer & Brown, 2005; Baldwin-Edwards, 2004), with states having decreased or completely removed their offering of welfare rights to non-citizens, a phenomenon that has been called the hollowing out of the welfare state (Jessop, 1994). However, questions remain as to whether the hollowing out of the welfare state has impacted migrants in the U.S. context as much as it has in Europe. Even for scholarship based in Europe, there is relatively little that examines labels within the category of forced migrants, instead focusing exclusively on the refugee status.

To begin, we discuss the distinction that much research has placed between forced migrants and voluntary migrants and how categories are not fixed but instead plagued with arbitrariness and uncertainty. Then, we discuss how legal categorizations interact with the social welfare regime in the United States by examining important pieces of legislation. We focus our analysis on four statuses of protection: Refugee/Asylee, Asylum Seekers, Temporary Protected Status (TPS), and Humanitarian Parole. In an era categorized by economic globalization and transnational migration, how migrants are assigned categories and how these categories impact their ability to access public assistance are vital pieces to studying and understanding the lives of forced migrants. We end by arguing that immigration policy for forced migrants is reactive and largely based on ideas of exclusion and inclusion.

**Forced Migration and Categorization**

Policy, programs, and research for immigrants often focus on the legal categories said immigrants hold. For example, someone assigned the label economic migrant receives different treatment than someone assigned the label refugee. Moreover, the labels affixed to people are often viewed as objective truths, not social constructs. Crawley and Skleparis (2018) critique this categorical fetishism by arguing that dominant categories “fail to capture adequately the complex relationship between political, social and economic drivers of migration or their shifting significance for individuals over time and space” (p. 48). To resist this categorical fetishism, scholars have problematized the notion that forced migrants move purely for forced reasons and voluntary migrants move purely for voluntary reasons by saying that forced migrants maintain agency and exercise some level of decision making when moving, while voluntary migrants are also impacted by economic, political, and social forces outside of their control (Bakewell, 2011; Crawley & Skleparis, 2018; Erdal & Oeppen, 2018; Zetter, 2007). We agree with the assertion that legal statuses are complicated and often do not reflect the lived experiences of those forced to flee. Instead of reflecting the natural characteristics of the individual, the different legal categories aimed to provide humanitarian protection are instead reflective of how states attempt to include or exclude forced migrants.

Over the past three decades, in what has been referred to as the age of migration (Castles, 2003), new labels have emerged for humanitarian migrants. Previously, the categorization of forced migrants was a simpler process. Governed by the 1951 Refugee Convention and its 1967 Protocol, refugee status was granted to many forced migrants. However, in many countries, humanitarian migrants are increasingly being denied refugee status and instead being funneled to what Mansouri et al. (2009) call "tolerated refugee" status. Typically, this "tolerated" status offers protection that is time-limited with little social welfare access and no current pathway to permanent residency or citizenship (Bergeron, 2014; Zetter, 2007). For countries that resettle refugees in the Global North, these labels reflect governmental interest and are used to implement and manage migration policies for specific groups of people. This politicization reveals how governments categorize people to legitimize states' interests and strategies to regulate migration and migrants.

The labeling of a migrant can have significant implications for their lives. Studies have shown that those with temporary status are less likely to integrate compared to those with full refugee status (Mansouri et al., 2009). Moreover, mental health outcomes are worse for temporary migrants (Bailey et al., 2002; Mansouri et al., 2009; Menjívar, 2006). Labels also impact the way that the media and the public treat migrants. Sociologist Otto Santa Ana’s analysis showed how the Los Angeles Times articles used demeaning animal metaphors to refer to migrants (Santa Ana, 1999). At the same time, politicians construct some forced migrants as “undeserving” economic migrants (Dwyer, 2005). Beyond a purely legal distinction, labeling impacts the daily lives of migrants, as well as how the media, politicians, and the public conceive them.

While these new labels restrict many from attaining refugee status (which makes it more difficult to become a permanent resident or citizen), they are also used to deter entrance and promote offshore processing. In the United States, for example, the Migrant Protection Protocols (Department of Homeland Security, 2019) (often referred to as MPP or the “Remain in Mexico” policy), instead of allowing lawful entry into the U.S. until their case is decided, kept those seeking asylum in the United States in dangerous situations in Mexico, a violation of international human rights. This situation exhibits how states maintain broad, unchecked freedom to alter their refugee and asylum policies based on labor needs, political climate, or foreign policy (Jones, 2020). In the United States, labeling can significantly impact how an immigrant moves through the world.

**The US Social Welfare State**

Before discussing the U.S. welfare state in relation to forced migrant category, we must briefly discuss what we mean by welfare. Defining welfare, in itself, is a difficult task, as the term is used differently depending by whom and for what purpose. We choose to follow preeminent welfare historian Michael B. Katz’s definition: the provision of relief and rehabilitation for dependent people (Katz, 1996).[[1]](#footnote-1) Katz differentiates between two types of welfare: public assistance and social insurance, bifurcated along class lines. Public assistance, typically referred to in the public discourse as welfare, is means-tested relief, based on income, with current programs in the United States including Supplemental Nutrition Assistance Program (SNAP), Medicaid, Supplemental Security Income (SSI), and Temporary Assistance for Needy Families (TANF).Contrastingly, social insurance is not means tested but an entitlement for everyone, by virtue of an objective and fixed characteristic, like age. Examples of this include Medicare or Social Security. Recipients of social insurance programs are usually not viewed as welfare recipients by the public. Moreover, Katz also says that much of welfare occurs through the private sector (see also Hacker, 2012), and that welfare encompasses both private and public action and activity inside and outside of institutions. However, this form of welfare is not the focus for this paper, although we believe there is great merit to the argument that those of a higher socioeconomic class benefit more from welfare than those from a lower socioeconomic class. Here, we focus on public assistance (we will refer to this as welfare and social welfare interchangeably throughout the paper) and programs that are forms of means-tested relief, primarily these federal public assistance programs: SNAP, Medicaid, TANF, and SSI.

Sociologist Gøsta Esping-Andersen (1990) famously created a typology of welfare states, defining the United States as a liberal welfare state. A liberal welfare state is characterized by low commodification and dual stratification. This means that it heavily incentives individuals to participate in the labor market and largely maintains or exacerbates class differences because social benefits are tied to employment. The government utilizes market-based solutions to address social problems. In addition, the U.S. welfare state is also as complicated as it is incomplete, and benefits can differ drastically depending on location of residence. For example, those living in California will most likely have broader access to social welfare benefits than those living in Alabama. For the purposes of this paper, we discuss welfare provided by the federal government, but further research is needed on the state level.

**Relevant Legislation**

The primary aim of this study is to understand how legal categorization of forced migrants in the US relate to access to social welfare. Our primary sources of legislative documents are the Immigration and Nationality Act of 1952, the Refugee Act of 1980 (1979 Congressional Report and Congressional Hearings), the revised version of the Immigration and Nationality Act (INA) of 1990 and the Personal Responsibility and Work Opportunity Act of 1996 (also referred to as welfare reform). There are certainly other documents we could have chosen as a focus, however we decided to closely examine, what we believe, are the most important pieces of legislation impacting social welfare eligibility for forced migrants. We discuss how these documents help us understand shifts in immigrant legal categories in relation to shifts in the social welfare state over the last several decades. We triangulate the data by supplementing the policy, legal, and legislative documents examined with additional academic articles. We draw from policy and legal documents from the National Immigrant Law Center (NILC) and the Migration Policy Institute, amongst others. The triangulation of multiple data sources supports our findings. During our analysis of legislative and policy documents, we primarily focus on how humanitarian protection statuses were developed and conceptualized in regard to labeling forced migrants. Then, we focus on how these documents instituted provision to include or exclude forced migrants’ access to the US welfare state.

**The Creation of Statuses**

*Immigration and Nationality Act of 1952*

The humanitarian parole category was created by the Immigration and Nationality Act (INA) of 1952. According to the INA,

The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien[[2]](#footnote-2) applying for admission to the United States, but such parole of such alien shall not be regarded as an admission of the alien and when the purposes of such parole shall, in the opinion of the Attorney General, have been served the alien shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States. (INA, 1952, p. 188)

This category clearly meant to serve a temporary purpose and was intended for those fleeing communist regimes (Wasem, 2020), a fact that can be seen in its historical use. In 1956, President Dwight Eisenhower used parole to bring almost 40,000 Hungarians who fled the Soviet Union’s invasion of Hungary. Hungarians were treated more favorably than other humanitarian immigrants, as two years later, they were allowed to become permanent residents and citizens. In 1959, Cubans were paroled after the country’s Revolution. In 1975, the largest number of parolees came from Southeast Asia (Vietnam, Cambodia, Laos), following the Vietnam War.

Parole programs were administered on an ad-hoc basis. Parolees were not allowed to become permanent residents unless separate legislation allowed it. For example, those fleeing communism in the Soviet Union, Southeast Asia, or Cuba were eventually allowed to apply for permanent residency, while other parolees, like those from Haiti, could not. Moreover, Cubans had four parole programs, while Haitians were only allowed one, making it harder for Haitians to come to the U.S.[[3]](#footnote-3) More recent parolees include Afghans connected to the U.S. military fleeing Taliban rule and Ukrainians fleeing after the war with Russia started.

The U.S. makes special provisions in response to different groups of parolees. In the case of Afghans and Ukrainians, parole provided an alternative to the refugee system, which was severely limited in its capacity. However, ad hoc statuses, such as humanitarian parole, can lead to differential treatment among different national groups and the parole status typically does not offer public assistance or pathways to permanent residency and citizenship. In addition, the renewal of a parole status is not guaranteed, meaning that many parole recipients cannot be sure about their residency in the U.S. (Chishti & Bolter, 2022).

*The 1980 Refugee Act: Policy Implementation and Social Welfare*

The Refugee Act of 1980 is a humanitarian law that expanded eligibility for asylum and standardized assistance for refugee resettlement. It was also the first attempt at aligning refugee and asylum law with the UN Refugee Convention. According to the UN Convention, a refugee is someone who is “unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or public opinion” (United Nations General Assembly, 1948; United Nations General Assembly, 1951, pg. 3). The Convention is both a status and a rights-based instrument that include the fundamental principles of non-discrimination, non-penalization, and non-refoulement. The provisions are to be applied without discrimination regarding race, religion, or country of origin. International human rights law also reinforced the principle that it be applied without discrimination regarding sex, age, disability, sexuality, or other prohibited grounds of discrimination. Notably, the Convention specifies that refugees should not be penalized for unlawful entry or stay in the country they seek refuge in and recognizes that seeking asylum can require individuals to break immigration rules (United Nations General Assembly, 1948; United Nations General Assembly; 1951).

Prior to the Refugee Act of 1980, the United States did not initially sign on to the 1951 Refugee Convention. However, they attempted to adopt similar concepts around humanitarian protection, emphasizing combating Communism by adding a geographical criterion to qualify for refugee status. This led to the passage of the Refugee Relief Act of 1953, which admitted people based on its own ideologically restrictive definition of a refugee: fleeing a communist country or the Middle East. There was no comprehensive federal program for refugees and asylees, and Cold War politics strongly shaped national refugee policies in the United States. During this period, the U.S. primarily accepted displaced Europeans fleeing the Soviet Union and Cubans seeking asylum after the Cuban Revolution in 1959 (Bon Tempo, 2008; Hamlin & Wolgin, 2012; Yarnold, 1990), all under the aforementioned status of humanitarian parolee. While the previous law only recognized refugees fleeing from Communism, the 1980 Refugee Act was modeled on the UN Convention's non-ideological standard of a "well-founded fear of persecution”. The law removed geographic and ideological limits on the definition of a refugee, provided the first statutory basis for asylum, increased refugee admissions annually, and created the Office of Refugee Resettlement (ORR), which oversees resettlement services (Hamlin & Wolgin, 2012; Hamlin, 2015). Congressional reports and hearings on the Refugee Act repeatedly recognized the need to update U.S. refugee policy. Specifically, it stated:

There are several inescapable conclusions that can be drawn from the brief review of the United States' response to refugee problems over the last 30 years. First, the need for resettlement of refugees is neither unusual nor incidental but is a continuing problem which must be faced by all nations, including the United States. Second, the United States has lacked a consistent refugee admissions policy and, as a result, our response to refugee emergencies has been haphazard, incoherent, and often inadequate. Third, previous domestic assistance programs have been unrealistically limited both in scope and duration. These inadequacies have long been recognized by the legislative and executive branches and led to a concerted effort in this Congress to enact remedial legislation (US Congress Senate Judiciary Committee on the Judiciary Committee, 1979, pg. 5)

The ad hoc nature of the pre-1980 refugee program led to disparate treatment of resettled refugees. For example, the agencies that resettled Soviet refugees received $1,100 per refugee if there was a private matching fund of $1,100 per refugee. For each Southeast Asian refugee resettled, they were eligible for $500 with no matching fund (Brown & Scribner, 2014). This striking disparity showed the need to implement a consistent resettlement program, as well as a comprehensive refugee admissions policy (Silverman, 1980; Wasem, 2020), something that Congress recognized:

There is a broad consensus that our refugee policy up to this time has been haphazard and inadequate. Current programs are the result of ad hoc responses of our government to refugee crises that have existed throughout the world-in Hungary, Cuba, Eastern Europe, or Indochina. Current, statutory provisions are outdated, unrealistic, and discriminatory. Even the definition of refugee-limited geographically and ideologically to persons fleeing from the Middle East or from the Communist countries is a cold war relic (US Congress Senate Judiciary Committee on the Judiciary Committee, 1979, pg. 2).

The Refugee Act of 1980 also came in the context of sustained political pressure to change previous refugee laws that were restrictive. After the Vietnam War, the large number of Southeast Asian refugees pressured the US government to respond to this refugee crisis. The Refugee Act also came after the passage of the Immigration and Nationality Act of 1965 (INA), which eliminated national origin quotas and permitted entry for people from Asia, Africa, Central and South America, and the Caribbean (Hamlin & Wolgin, 2012).

In the United States, refugees become permanent residents one year after arrival and are eligible to apply for citizenship after five years. Refugees and Asylees are often deemed a more privileged migrant category as they are afforded the same rights as U.S. citizens to social welfare and put on a direct pathway to citizenship. The Office of Refugee Resettlement (ORR) operates under the Department of Health and Human Services (HHS) and oversees support services for refugees and asylees. Legislative documents and congressional reports on the 1980 Refugee Act emphasized the need for social welfare services for refugees to ensure economic self-sufficiency - integrating refugees into the U.S. labor market was perceived as the primary way to ensure their integration into US society:

The bill provides a more equitable way of assisting refugees once they arrive in the United States. I know that witnesses from the Department of Health, Education and Welfare will be discussing Title III of the Act with this Committee at another hearing so I will only mention here that it recognizes that all refugees have certain common needs and should be eligible for common benefits. In the past, our domestic assistance programs evolved in response to specific humanitarian crises around the world. The growth of domestic programs, through repeated statutory amendment, has resulted in a range of separate programs offering different services to different groups. While we hope to maintain the flexibility to respond to the specific needs of certain groups of refugees, we also want to assure that all refugees have access to the assistance is necessary to become self-sufficient and contributing members of American society (US Congress Senate Judiciary Committee on the Judiciary Committee, 1979, pg. 4).

*The Immigration and Nationality Act of 1990: Temporary Protection and Central American Refugees*

After the passage of the 1980 Refugee Act, there was a growing number of asylum seekers coming from non-communist countries fleeing highly oppressive regimes. Central American refugees fleeing dictatorship, civil war, and economic instability in the region were often deemed economic migrants, not asylum seekers, by the Reagan administration and other government officials (Ong-Hing, 2020). The administration’s response to Central American asylum seekers was often tied to broader foreign policy interests in the region, emphasizing the administration’s anti-communist stance toward Central America and supporting oppressive regions. Human rights violations by the Guatemalan and El Salvadoran governments were well documented by leading human rights organizations, including Amnesty International and Human Rights Watch (Amnesty International, 1982; Human Rights Watch World, 1990). However, the Reagan administration often denied that the Salvadoran and Guatemalan governments were responsible for human rights violations, which greatly influenced asylum determinations. Approval rates for asylum cases for individual from El Salvador and Guatemala had less than 3% approval rate in 1984 (Gzesh, 2006). Some have stated that the widely documented human rights abuses in El Salvador and Guatemala and the denial of Central American asylum seekers constituted a violation of the US government’s obligation to asylum seekers under the 1951 Refugee Convention (Menjívar, 2006; Wasem, 2020).

Temporary Protection Status (TPS) emerged in response to Central American asylum seekers. The first piece of legislation that included a provision for a temporary protection status was intended for asylum seekers from El Salvador to provide a temporary safety. Later, TPS was expanded to provide temporary humanitarian protection to qualifying immigrants from other countries who resided in the United States. TPS is a form of humanitarian relief for foreign nationals residing in the U.S. who were fleeing—or reluctant to return to—potentially dangerous situations. The revision of the Immigration and Nationality Act (1990) included an amendment that added a temporary protected status. “Extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the Attorney General finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.” The legislation also states that "the alien may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36)) or any political subdivision thereof which furnishes such assistance” (pg. 72).

 Countries currently designated for TPS are Afghanistan, Burma, Cameroon, El Salvador, Ethiopia, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen. TPS has been criticized for placing long-term recipients in legal limbo, denying them a pathway to permanent residency and citizenship and barring them from most federal public benefits (Bergeron, 2014). Based on the treatment of Central American refugees, the labeling of immigrant groups does not frequently correspond to the lived experiences or characteristics of migrant groups, nor does it align with the responsibilities of states to provide comprehensive protection (Wenzel & Bös, 1997). The U.S. government's response to the refugee crises in Central America demonstrates how varying political, social, and economic interests often influence administrative categories under U.S. immigration law. U.S. humanitarian commitments are primarily based on the 1980 Refugee Act, where the executive branch determines the total number of refugee admissions and what regions to accept refugees from. However, in regard to asylum flows from Latin America and the Caribbean, the U.S. has been reluctant to offer protection, instead excluding them from the more privileged refugee label. The primary exception for refugees in the Western hemisphere is Cubans who fled after the Cuban revolution of 1959, which was mainly in response to geopolitical interests and the United States' anti-communist stance (Bon Tempo, 2008; Yarnold, 1990).

**Welfare for Forced Migrants**

*1996 Welfare Reform Act*

At present, in the United States, the rights that immigrants have to public benefits is a result of the Personal Responsibility and Work Opportunity Act (PRWORA) of 1996. President Bill Clinton worked across the aisle with Republicans, determined to fulfill his campaign promise to “end welfare as we know it”. PRWORA, also called the Welfare Reform Act, had a profound impact on the US welfare state, creating for the first time a binary “distinction between citizens and non-citizens for the purposes of public benefits” (Hammond, 2018, p. 502). The result ended up tying welfare to work, increasing the rights of states, and drastically altering the rights and access that noncitizens had to welfare. Questions abounded regarding the extent the U.S. government should provide welfare benefits to non-citizens (Agrawar, 2008; Whorton, 2007). In these debates, immigrants were often portrayed as underserving of support because of their insufficient economic contributions to society. The PRWORA certainly reflects some of the points of these debates.

PRWORA divided non-citizens into two categories - "qualified aliens" and "non-qualified aliens". Refugees and asylees are considered "qualified aliens" and are eligible for federal public assistance (Fix & Haskins, 2002). "Non-qualified aliens" are mainly individuals who are not legal permanent residents and are barred from accessing welfare benefits, which includes those on TPS, humanitarian parolees, and those seeking asylum who have not had their case decided yet. Other immigrant groups were categorized as “non-qualified aliens” and ineligible for welfare support. Exceptions are made for emergency medical assistance and other disaster assistance, but by and large, “non-qualified aliens” could not access federal welfare benefits.

Even for groups who were classified as “qualified aliens”, that did not guarantee access to benefits immediately upon entrance. “Qualified aliens” who arrived before the implementation of PRWORA in 1996 were eligible for most federal benefits. However, for those who arrived after this, they were often barred for a period of five years until they could access benefits. Post-PRWORA immigrants were prohibited from receiving public benefits until they have five years of qualified status (Hammond, 2018). However, there are many exceptions to this rule. Refugees, Asylees, victims of human trafficking, Cuban immigrants, Haitian immigrants, Iraqi or Afghan special immigrants, and recent Afghan and Ukrainian parolees do not have to wait for five years, and they can access public assistance immediately. For many of these groups that fall under humanitarian exception, they only have access to SSI for seven years, at which point they are expected to become legal permanent residents (LPRs). However, there are sometimes administrative delays, which can cause someone to lose their status.

The Welfare Reform Act had a profound impact on immigrant populations. With the increased restrictions on eligibility for recipients, there was a decline in the number of welfare cases. The bill was meant to make welfare more attached to work requirements, removing almost one million non-citizens from receiving public benefits (Thomas & Collette, 2017). The Congressional Budget Office calculated that 40% of the entire savings from PRWORA came from eliminating immigrant eligibility in TANF, Medicaid, SNAP, and SSI (Hammond, 2018).

Another important consequence of the PRWORA was how it increased federalism in relation to welfare. States were empowered to make much of the rules regarding eligibility by themselves, drastically increasing states discretion on benefit disbursement. For example, some states required additional requirements for “qualified aliens”, like needing 40 quarters of work in order to move past the five-year ban on benefits.

 PRWORA is an incredibly salient example of the power of categories, not only how arbitrary categories impact entrance into a country but also treatment within a country. For refugees, asylum seekers, parolees, and those on temporary protected status, the impact on their lives can be extraordinary. The new citizenship criterion for welfare elevated the importance of formal citizenship in a way that is inconsistent with both previous U.S. policy and international standards.

*Post-Trump Public Charge*

One area of the social welfare discussion that warrants consideration is the public charge provision. First enacted in 1882 by Congress, based on the English poor laws, this barred “any person unable to take care of himself or herself without becoming a public charge” (Hammond, 2018, p. 519). With the passage of the PRWORA in 1996, Congress further clarified that the national policy was so that “aliens within the Nation’s borders do not depend on public resources to meet their needs, but rather rely on their own capabilities and the resources of their families, their sponsors, and private organizations” (PRWORA § 400 (2) (A), 8 U.S.C. § 1601 (2) (A)). In 2019, President Trump instituted major changes to the public charge provision, broadening what counted as aid eligible for a public charge declaration. Before, only public cash assistance programs (like TANF) or long-term institutionalization at the government’s expense (like a nursing home or a mental health institution) counted to be considered a public charge. With Trump’s change, receipt of Medicaid, SNAP, housing assistance, energy assistance, child-care subsidies, and other benefits received for more than 12 months within any three-year period could be deemed a public charge. While this rule was not in place for very long (both due to court injunctions and President Biden ending it upon election), it carries grave consequences.

Although the public charge provision does not apply to the groups we are discussing in this paper, it still impacts their lives. The rule does not apply to refugees and asylees, as they can become LPRs after one year of presence in the country, regardless of any benefits they receive. Also, asylum seekers, TPS holders, and parolees are not eligible to become permanent residents, so the provision also does not apply to them. However, research has pointed to a chilling effect on service users, where those the public charge rule does not impact do not utilize welfare services for fear of the impact it could have on their immigration status. This may push forced migrants further into poverty.

**Conclusion**

Our analysis of how forced migrant categories impact access to social welfare in the U.S. articulates the varying ways states treat forced migrants differently and often, unequally, based on the type of legal status they hold. Our paper addresses an important gap in the social work and social welfare literature, as few social welfare scholars have addressed the intersection of immigrant categorization and the welfare state. More states are changing policies to determine and restrict the movement of people around the world, and immigration statuses, in intersection with social welfare policy, operate as a tool to either include or exclude desirable or undesirable immigrants. The United States, as a liberal state, restricts welfare access to non-citizens (Boräng, 2015). Immigration is often unfairly portrayed as a drain on the welfare state, and forced migration, in many cases, fits this portrayal (Boräng, 2015). Because of this, governments have used the restrictiveness of the welfare state as a way to deter people from coming to their countries (Boräng, 2015; Baldwin-Edwards, 2004). This welfare magnet hypothesis is a popular view, although there is little proof that migrants move more frequently to areas with more expansive welfare states.

The U.S. has proven to be reactive in creating legal categories and determining social welfare eligibility. For example, certain groups, even those in the same categories, receive differential access to social welfare. Cubans, Afghans, and Ukrainians on parole can receive social welfare benefits, while others on parole cannot. In addition, individuals who fall under the same national group do not receive similar statuses, even if they collectively experienced forced displacement. See this in the nationalities represented on the TPS country designation list. Many of the nationalities that qualify for TPS also fall under the categories of refugees, asylees, or asylum seekers. Migration pathways and immigration policies often place people into different legal statuses, leading to differential and unequal treatment.

We recognize that there are limitations to our analytical approach. Due to the arbitrariness of legal categories, many individuals may be considered forced migrants but do not hold one of the four legal statuses included in our paper. For example, someone who came to the US on a student visa and is originally from Syria (and cannot return) is not included and many forced migrants may be residing in the US and are undocumented. We also recognize that some legal statuses could be considered a humanitarian protection status and are not included here, such as statuses that protect victims of human trafficking and victims of domestic violence.

Legal categorization has clear implications for social welfare regimes and their response to forced migrants worldwide as forced migrants feel these policies in their everyday lives. For instance, legal categories create anxiety and confusion about how to interact with the welfare system. Moreover, changing Presidential administrations creates more confusion and invokes fear in accessing the social welfare system, even when they are eligible for services. The construction of the migrant legal status, then, is felt when it comes to interacting with the social welfare state. This is reinforced when renowned refugee scholar Roger Zetter said that forced migrant policy is “controlled by [a] draconian mix of deterrent measures and in-country policies and regulations” (Zetter, 2007, p. 184). Social policy and social work practitioners must pay attention to how governments restrict or give access to social welfare services to all those who reside within their borders, not just its citizens. This means that practitioners, advocates, and policymakers must take a more critical stance on how social policies and programs are interacting with immigration policies to either exclude or include specific groups residing within their territory based on their legal status. Many social welfare scholars argue that debates about the “deserving” and “undeserving” poor often shape social welfare policies within the nation-state. In the era of international migration, economic globalization, and increasing forced migration, we argue that extending social welfare debates to include national immigration policies provides more nuance and clarity on individual “deservingness” based on the type of legal status that individuals hold.

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1. We recognize that “dependent people” or “dependency” carries many assumptions about the poor that are stigmatizing, with many using this label to paint the poor as lazy (see Fraser & Gordon, 1994). We do not buy into such discussions of the poor. [↑](#footnote-ref-1)
2. We do not agree with the term “alien” in referring to people. Where this language appears in the law, we will use it when quoting directly. Otherwise, we try to use more humanizing language. [↑](#footnote-ref-2)
3. Other groups who have historically been allowed to parole into the United States include Central American Minors, those fleeing violence in Guatemala, Honduras, Nicaragua, and El Salvador, and Filipino WWII veterans. [↑](#footnote-ref-3)