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Unsettling expectations of stay: probationary immigration policies in Canada and Norway

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Abstract

Despite their strong humanitarian reputations abroad, Norway and Canada have adopted domestic immigration policies that produce permanently precarious residents. These policies affect individuals—including refugees, permanent residents, and naturalized citizens—who have traditionally enjoyed secure legal statuses. Adopting the analytic lens of 'probationary immigration', this article explores the legal mechanisms behind three interrelated developments in both countries: 1) the fragmentation of protection regimes in terms of access, rights and duration; 2) stricter/less predictable requirements for permanent residence and citizenship; and 3) intensified practice regarding the revocation of citizenship.

Keywords: Canada, Norway, Probationary immigration, Temporary migration, Permanent residence, Citizenship revocation, Refugee status, Migrant rights

Part I. Introduction

Scholarly research on precarious immigration status typically focuses on defined categories of people: undocumented residents, migrant workers on temporary visas, and refugee claimants. In contrast, people with refugee status, permanent residence and citizenship had long enjoyed "security of presence" (Rajkumar et al., 2012, 488). This is, increasingly, no longer the case. Recent developments in destination states' immigration and citizenship laws and policies have challenged our conventional understanding of permanent residence and citizenship as "permanently permanent" (Ellermann 2020, 2464; see also Rajkumar et al., 2012). Today, access to and maintenance of permanent residence and citizenship can no longer be assumed by people with a legitimate expectation of stay, including refugees in need of a durable solution and other long-term immigrants.

Borrowing the term 'probationary immigration' from Ellermann and Gorokhovskaia (2020), we analyze the increasingly temporary nature of residence in two states, Canada and Norway. Probationary immigration describes, on the one hand, the conditionality associated with different immigration categories which render a person deportable as soon as their circumstances have changed: for example, the situation in a refugee's

country of origin improves or a migrant on a labor visa tied to one employer loses their job. On the other hand, it describes the increasingly onerous and/or unpredictable requirements that have been introduced to qualify for permanent residence and citizenship. And while these forms of status have become harder to get, they are also easier to lose. Thus, as we discuss below, not only is legal security undermined by short-term permits and an enhanced focus on their potential withdrawal, but the stability promised by permanent residence and even citizenship is increasingly out of reach.

Probationary immigration is facilitated by "bureaucratic 'fractioning'" (Zetter, 2007, 174), which involves the proliferation of migration categories as well as an increased diversification of rights and benefits between and within those categories. While status proliferation and diversification has become a prominent tool of migration management (see e.g., Morris, 2003; Meissner, 2018; Meissner & Vertovec, 2015; Demetriou, 2019; Goldring & Landolt, 2022; Triadafilopoulos & Taylor, 2024), there is little scholarship regarding the legal mechanisms that produce it (but see Chacón, 2016), or the specific impacts of this regulatory hyperactivity on non-citizens' rights and protections (Könönen, 2018; Coderre & Nakache, 2021). Particularly interesting here—and discussed below—is the more recent "development of horizontal status stratification – that is, the creation of legal hierarchies within formerly equal status groups–" such as temporary and permanent residents (Ellermann & Gorokhovskaia, 2020, 47).

In this article, we take a broad, comparative approach to map the destabilization of legal status for foreign-born residents in Norway and Canada – including those belonging to traditionally privileged categories like 'refugee,' 'permanent resident,' and 'citizen.' We highlight common measures through which the Norwegian and Canadian governments create and reinforce a "continuum of precariousness" (Neylon, 2019, 2) from admissions to citizenship through 1) the fragmentation of protection regimes in terms of access, duration and rights attached; 2) increased barriers to permanent residence and citizenship; and 3) an enhanced focus on revoking the permanent residence and nationality of people with an immigrant background. These probationary immigration measures are produced through the interaction of different legal regimes (asylum, immigration, criminal law, etc.) and serve various, often intersecting and competing, interests for the two states, depending on the context: deterrence, national security, meeting labor flexibility needs and integration objectives (see e.g., Dauvergne, 2016; Gammeltoft-Hansen & Tan, 2017; Triadafilopoulos & Taylor, 2024). While not necessarily intended (Eggebø & Staver, 2020), the collective effects of interaction among these state interests are such that (im)migrants are made more easily deportable and increasingly denied the possibility of full membership in Norwegian and Canadian societies.

It is important to note here that the objective of our paper is not to provide an in-depth comparison of the two countries' immigration, refugee and citizenship policies, or to explain why differences or similarities exist. Rather, we are interested in studying common trends that emerge from the two countries' systems and their consequences for (im)migrants' rights and protections.

Such analysis is interesting because both Norway and Canada are widely perceived and indeed branded as "do-gooders" in global responses to displacement (Gammeltoft-Hansen, 2021). The two countries have asylum and immigration legislation characterized by a rights-based approach anchored by international treaty obligations (Crépeau

et al., 2007; Lidén et al., 2021). Their policies towards lawfully resident (im)migrants have been regarded as among the most inclusive (see e.g. Brochmann & Hagelund, 2012; Dauvergne, 2016). With regard to their international engagement, Norway and Canada are two of the largest donors to UNHCR and have well-established resettlement programs. They actively supported the development and adoption of the GCM and GCR, and continue playing an influential role in the implementation of both the GCM and GCR (Benson et al., 2024; Norwegian Ministry of Foreign Affairs, 2023) Yet, at the same time, the two states are pursuing increasingly restrictive policies at home. In addition to the measures discussed in this article, Norway supports FRONTEX operations in the Mediterranean that prevent migrant arrivals, and indirectly benefits from deterrence measures such as the EU-Turkey agreement. Canada, meanwhile, has during the past two decades developed and deployed sophisticated tools to deter and prevent unauthorized arrivals and restrict asylum seekers' access to protection (see e.g., Atak et al., 2018; Reynolds & Hyndman, 2021). This increased securitization of the two countries' domestic refugee policies is remarkable considering their geographical location, which makes it more difficult for unauthorized migrants to reach their borders compared to the more proximate southern or eastern borders of the European Union (EU) or the United States (US), and, in the case of Norway, its legal insulation from direct pressures of migrant arrivals because of the Dublin Regulation (Gammeltoft-Hansen, 2021). Another commonality is the intensification in recent years of civic integration policies, characterized by the introduction or sharpening of language, knowledge, and employment requirements to access permanent residence and citizenship (see e.g., Borevi et al., 2017; Mouritsen et al., 2019; Pélabay et al., 2020). As discussed in Part III, these conditionalities apply unevenly to, and have disparate impacts on, different immigrant groups. Furthermore, as we explain in Part IV, the logic of earned settlement means that previously permanent statuses can also be "unearned" (Ellerman & Gorokhovskaia, 2020, 46), creating the possibility of "indefinite probation" (ibid.) even for naturalized citizens. One distinction, however, between the two states is the site of contestation when it comes to the restrictive motivations propelling probationary immigration. Both have immigration channels for the purposes of work, education, humanitarian protection, and family reunification. However, policy debates in Norway policy center primarily on refugees and their families while in Canada they extend beyond asylum to the expanding role of temporary labor migration in the Canadian economy. All these points are discussed below.

The central aim of this article is therefore to show how, despite their strong humanitarian reputations, Norway and Canada pursue immigration policies that produce permanently precarious residents. These policies affect individuals—including refugees, permanent residents, and naturalized citizens—who previously enjoyed a legitimate expectation that their attachments to the country of residence would be reflected in a secure status. In what follows, we discuss several legal mechanisms underpinning this development: 1) the proliferation of status categories and the fragmentation of rights within the refugee regime; 2) stricter/less predictable requirements for permanent residence and citizenship; and 3) an intensified focus on the revocation of permanent residence and citizenship.

Part II. Bureaucratic fractioning in protection regimes

The proliferation of legal statuses for different refugee groups has been a hallmark of protection regimes in many countries since the early 1990s, permitting states to limit their obligations in terms of attached rights and the duration of asylum to those who do not meet the UN Refugee Convention criteria.[1] At first glance, Norway and Canada may seem to have resisted this trend. Unlike their neighbors (i.e., the United States, Denmark and Sweden) which operate with more explicitly calibrated categories of 'refugee' and 'subsidiary' protection statuses, both Norway and Canada grant refugee status, with the rights that attach under the UN Refugee Convention, not only to people who meet the Convention definition, but also to those protected from *refoulement* to torture, inhuman or degrading treatment under human rights law (i.e., European Convention on Human Rights 1950; UN Convention against Torture 1984).[2] However, stratification within the protection regime does exist, with important consequences for access, rights, and pathways to more permanent stay.

Differentiation of rights in the Canadian asylum regime

In 2022, Canada was the largest resettlement country in the world for the fifth consecutive year (UNHCR, 2023). While it is an increasingly welcoming place for resettled refugees (i.e., refugees chosen abroad by the government), it has also become a more exclusionary place for asylum seekers arriving on their own.[3] Restrictive legislative changes map onto media and public discourse which presents in-Canada claimants as 'bogus' or 'queue jumpers,' while resettled refugees chosen abroad are "touted as deserving, law-abiding, and orderly, waiting until they are called for settlement in Canada" (Reynolds & Hyndman, 2021, 37; see also Atak et al., 2018). Since 2004, when the Safe Third Country Agreement (STCA) came into force between Canada and the US, many in-country claimants have been denied refugee status determination because they had travelled first through the US. The few exemptions apply to people with a close family member living in Canada with lawful status, unaccompanied minors (UAMs), and those who arrive with a valid Canadian visa or entry document or who were not required to obtain one (STCA, 2004, art. 4(2)). However, unlike protection seekers who have *not* travelled through the US, people who fall into the exceptions are unable to appeal a negative first instance decision on their refugee claim.[4] A new refugee ineligibility ground introduced in June 2019 (Immigration and Refugee Protection Act (IRPA) 2001, §101(1)) also makes asylum seekers ineligible for refugee protection in Canada if they have made

[1] By 'Refugee Convention' we are referring to the 1951 Convention on the Status of Refugees and its 1967 Protocol.

[2] It should be noted that the Norwegian government has proposed several times to introduce a subsidiary protection status in times of high arrival numbers (Schultz 2022). However, the idea seems to have been sidelined by the activation of the provision on collective protection for refugees from Ukraine.

[3] While space constraints preclude an in-depth discussion of resettlement and other active admissions schemes, it must be noted that these too are increasingly fragmented. For example, between 2022 and 2024 Canada introduced programs to grant temporary visas to Ukrainians and Palestinians with Canadian relatives fleeing war in their respective countries. However, while the program for Palestinians has a cap of 1,000 persons, there is no cap for Ukrainians. As of January 2024, 930, 000 visa applications have been approved for war-affected Ukrainian nationals (Chauvet 2024).

[4] Legal challenges to the STCA have traveled up the court system. In June 2023, the Supreme Court of Canada acknowledged that asylum seekers sent to the US under the STCA face risks of rights violations, according to article 7 of the *Canadian Charter*, but also noted that there are "safety valves" in the Canadian system for people to be exempted from return to the US if they are at risk. The Court noted that if the Canadian government fails to apply those "safety valves," individual Charter remedies can be sought (Canadian Council for Refugees, 2023). Therefore, the agreement is still in place although it could still be challenged in the future.

a previous refugee claim in a country with which Canada has an information-sharing agreement (i.e., the US, Australia, the United Kingdom, and New Zealand), even if that claim failed. Unlike the STCA, there is no exception or exemption and no alternative protection in the country of first asylum: those who are deemed ineligible are subject to the usual deportation process, meaning a return to their country of origin and a risk of refoulement (Atak et al., 2021).

Another development illustrating the fragmentation of refugee claimant status is the Designated Foreign National (DFN) policy introduced following the arrival of 600 Tamil asylum-seekers from Sri Lanka aboard two boats in 2009 and 2010. The Conservative government of the time (2006–2015) intervened in every passenger's refugee claim, alleging that each of them had facilitated the irregular arrival of co-passengers and that this action qualified as human smuggling (Atak et al., 2018). However, the Supreme Court of Canada ruled a few years later that the government's approach to human smuggling was overbroad, and that acts of mutual aid (including aid between family members) could not constitute people smuggling under the Immigration and Refugee Protection Act (IRPA) (*Appulonappa*, 2015; *B010*, 2015). A series of legislative changes were introduced including the DFN policy, which allows the Minister of Public Safety to designate groups of migrants suspected of entering Canada through smuggling as "irregular arrivals" (IRPA, § 20.1 [1]). All DFNs over the age of 16 face automatic mandatory detention for a minimum of two weeks (IRPA 2001, §55(3.1)). The detention is reviewed after 14 days, followed by another review after six months and then every six months. In comparison, the decision to detain other refugee claimants is always made on a case-by-case basis: an initial detention review takes place within 48 h, followed by a review within seven days, and then every 30 days from the previous review (IRPA 2001, §55(1), 55(2) and 55(3)). Like refugee claimants falling into an exception to the STCA, DFNs cannot appeal a negative decision on their refugee claim to the Refugee Appeal Division. While they may apply for leave and judicial review at the Federal Court, they do not benefit from a statutory stay of removal, meaning that applicants may be deported before their case is reviewed. Unlike all other refugee claimants (including those exempted from the STCA), DFNs are ineligible to apply for a work permit until their refugee claim is approved, or until their claim has been in the system for more than 180 days and no decision has been made yet (IRPA 2001, §24(5)). Moreover, even when they obtain refugee protection, DFNs are barred from applying for permanent residence for five years (while other groups can apply for permanent residence immediately (IRPA 2001, §11(1.2) and 21(2); Immigration and Refugee Protection Regulations (IRPR), 2002, §175(1)). Despite being used only once since 2013, the DFN policy remains in place should the government decide to invoke the designation in response to migrants arriving through unauthorized migration channels. It has been criticized by scholars as being unconstitutional and in violation of Canada's international obligations (see e.g., Atak et al., 2018; Houle & Mac Allister, 2022).

Fragmentation within the Norwegian protection regime

In Norway, the stratification of rights in the asylum sphere primarily targets people whose right to protection has already been recognized or who, at a minimum, cannot be returned to their countries of nationality. For example, in 2008 the government

introduced a time-limited permit for unaccompanied minors (UAMs) (Immigration Regulations, 2009, §8–8). Previously, UAMs whose refugee claims were unsuccessful received residence on humanitarian grounds because removal to their countries of origin without a caregiver violated their rights as children. With the limited permit, this right of residence expires at the age of 18, at which time the youth are expected to return to their country of origin (typically the country of nationality even if they have never lived there before). In addition to the imminent threat of deportation, youths with a UAM-limited permit have no right to family reunification, and unlike other countries like Germany, there is no opportunity to 'switch tracks' to, for example, a labor visa, through work or education (Tangermann & Hoffmeyer-Zlotnik, 2018). Many UAMs disappear from the system before they reach the age of majority, seeking more durable solutions elsewhere in Europe (Garvik & Valenta, 2021).

Another axis of differentiation relates to the *context* of refugee arrivals, in response to system strains during periods of "mass influx" (UNHCR, 2001). Following the Russian invasion of Ukraine in February 2022, and the subsequent flight of millions of civilians from Ukraine, the Council of Europe activated the long-dormant EU Temporary Protection Directive (Council Directive, 2001). Although Norway as a non-EU member state is not bound by this instrument, the Council's decision motivated Norwegian authorities to apply a similar provision on collective protection already codified in the Norwegian Immigration Act (NIA) (2008) for refugees from Ukraine (NIA §34). Beneficiaries of collective temporary protection receive a one-year permit renewable for a period of three years. Although they are granted access to school, the labor market and health care on par with other refugees, their access to language training and some welfare benefits is more limited, and they are excluded from the ordinary path to permanent residence accorded to other refugees for the period of temporary protection. This means that should they remain in Norway after the period of three years has ended, they must complete a further five-year period of probationary residence before they can apply for permanent residence (Schultz, 2022).

And finally, while the mode of arrival (i.e., as a refugee claimant or through controlled channels like resettlement) does not, in contrast to Canada, have *direct* bearing on access to the refugee protection system, it should be noted that it does potentially affect the *duration* of protection provided. One strategy adopted to reduce refugee arrivals after a spike in claims in 2015 was the revitalization of the sleeping cessation provision in the NIA (NIA §37; Schultz, 2022). Cessation of refugee status follows a determination that protection is no longer needed either because of fundamental and durable changes in the country of origin or because the refugee has "voluntarily re-availed" herself of home state protection (Refugee Convention, art. 1C(1)). Immigration authorities were instructed by the Ministry of Justice and Security to withdraw refugee status as soon as international protection was no longer needed.[5] While refugees who claim asylum at the border or within Norway are exposed to cessation of status on this ground as long as they have a temporary residence permit, refugees resettled from third countries are exempted from protection reviews as a concession to the role of resettlement as a

[5] Between 2017 and 2023, refugee status was withdrawn in 282 cases. Thirty-five percent of these individuals qualified for a residence permit on other bases. Source: UDI statistics provided in an email to authors.

durable solution for people who often have a long period of displacement behind them (Schultz, 2022). Thus, while resettled refugees enjoy legal security to plan for their long-term residence, former asylum seekers risk deportation should their protection needs change before they manage to secure permanent residence (Brekke et al., 2020).

Within the protection regimes in both Norway and Canada, then, we see an increased diversity of statuses that differentiate according to the mode of arrival or, in the case of UAMs and people fleeing war, the presumed duration of protection needs. As illustrated by changes to cessation practice in Norway, this fractioning may also interact with measures that make permanent residence and citizenship more challenging to attain. However, while refugees are impacted in specific ways, the protracted temporariness produced by the civic integration policies described below is a feature that affects a broader range of individuals.

Part III. Disconnecting long-term residence from settlement status

In addition to creating new conditions for accessing and retaining protection, the concept of 'probationary immigration' captures sharpened and more unpredictable requirements for receiving permanent residence or citizenship. In this section we describe several mechanisms through which permanent residence and citizenship have become harder to access for many long-term migrants in both Canada and Norway. With respect to Canada, we first highlight the complex framework surrounding migrant workers' access to permanent residence, and the numerous barriers that these workers face in the process. This is followed by a discussion on how Canada's tightened naturalization regime over the past decade excludes permanent residents who arrived as refugees. We then turn to Norway, where the effects of conditionalities attached to both permanent residence and citizenship pose particular barriers to people with refugee backgrounds.

Barriers to settlement in Canada

Transition to permanent residence for migrant workers

In July 2023, approximately 2.2 million temporary residents (excluding visitors) lived in Canada, a 46% increase compared to July 2022. 1,5 million of these were temporary workers. As was first observed in 2022, the annual number of temporary migrants admitted in the country now surpasses the total number of permanent residents welcomed by Canada each year (Statistics Canada, 2023). The sharp increase in the number of temporary migrants relative to permanent immigrants is a significant shift, marking what Dauvergne coined "the end of settlers' society" in traditional countries of immigration such as Canada (2016, 133). This change has been accompanied by another policy shift, the expansion of two-step immigration, understood as the transition of migrants from temporary to permanent resident status within a given country (Nakache & Dixon-Perera, 2016; Akbar, 2022).

In 2018, about one-half of new economic immigrants were former temporary migrant workers, and this proportion keeps increasing. Recently, public attention has been paid to differences in the pathways to permanent residence for low-skilled versus high-skilled workers, particularly as a result of the COVID-19 pandemic which highlighted the key contribution of workers in low-skilled occupations (Picot et al., 2022; Haan & Li, 2023). However, in comparison to the huge literature on the experiences and sources of

precarity among temporary workers, migrant worker experience with transition opportunities in Canada remains a relatively understudied phenomenon (Nakache & Dixon-Perera, 2015). The few studies available reveal that the transition to permanent residence is rarely an easy process. In fact, as Schmidt et al. note (2023, 15), "the popular term of 'two-step' immigration makes the process sound simple for economic migrants on temporary permits, yet […] participants' stories illustrate the reality that, for many migrants, it is a multi-step process with high costs [contributing] to their prolonged precarity".

As those studies show, applying for permanent residence from within Canada entails many challenges, including navigating an increasingly complex and opaque regulatory framework with numerous and fast-changing requirements, remaining in difficult or even exploitative conditions for the sake of securing permanent residence, struggling to connect with government employees, relying on web-based applications, and being subject to major processing delays (for more on this topic, see Nakache & Dixon-Perera, 2015; Coderre & Nakache, 2021; Bélanger, et al. 2023; Schmidt et al., 2023, Haan & Li, 2023).This research also points in one direction: migrant workers' nationality, skill levels and types of work permit (open or employer-specific) constitute major factors facilitating, complicating, or impeding the transition process in Canada, therefore illustrating how status stratification results in uneven transitions to permanent residence, by adding more hurdles for some workers compared to others. Nationality is particularly interesting here. Indeed, recent research on immigration opportunities for workers from the International Experience Class—a category attracting annually more than 60, 000 migrant workers—reveals that there are multiple conditions of admission and stay in that same category, depending on the workers' nationality, which in turn leads to differentiated permanent residence experiences among category participants. This is one area where "horizontal status stratification" operates, generating not only inequalities between workers within the same entry category, but also leading to a more complex and insecure immigration system for migrant workers to navigate (Coderre & Nakache, 2021).

Access to citizenship for refugees with permanent residence

All permanent residents who want to become Canadian citizens by means of naturalization must meet a number of specific requirements (Canadian Citizenship Act (CCA) 1985, §5(1)). These include having been physically present in Canada as a permanent resident for at least three years in the five years preceding the application; having filed personal income taxes for at least three years within the five-year period; and having demonstrated, through the administration of a citizenship test, adequate knowledge of English or French and adequate knowledge, in one of the two official languages, of Canada and of the responsibilities and privileges that accompany citizenship. Following a series of regulatory changes in 2012, the language requirements for the citizenship test were raised from a Canadian Language Benchmark Level 3 to a Level 4, which, according to experts in the field (Burkholder & Filion, 2014), is equivalent to an intermediate to advanced level of one of the two official languages. Moreover, while an applicant's language ability was previously assessed through interactions with staff from IRCC, citizenship applicants are now required to submit a written document proving that they have adequate knowledge of English or French (results of a written language test; proof

of completion or attendance of secondary or post-secondary education in English or French, in Canada or abroad; or proof of completion of a government-funded language training program at Canadian Language Benchmark 4 or higher). In addition, between 2009 and 2014, a series of policy and legislative changes modified the criteria for determining "adequate knowledge" of Canada, which form the basis of questions found in the mandatory citizenship test. For example, the number of testable subjects was expanded, the score required to pass the test was raised from 60 to 75 percent, and citizenship applicants were required to take the test in one of Canada's official languages (this test could previously be taken in the applicant's first language). Finally, the citizenship application fee was increased, from 200 dollars per adult applicant in 1995 to 400 dollars in 2014 and to 630 dollars in 2015 (for specific details on these changes, see Nakache et al., 2020, 81–84).

Not surprisingly, the above citizenship changes have contributed significantly to a sharp decline in the naturalization rate among recent immigrants, from 75.4% in 1996 to 45.7% in 2021 (Hou & Picot, 2024). However, the decline was much larger among refugees who are more likely to face cumulative socioeconomic disadvantages (lower family income, lower educational levels and lower official language skills- see Xu, 2018 and Nakache et al., 2020). This situation is particularly troubling because refugees came to Canada under the humanitarian class, which does not require language proficiency or literacy skills as a prerequisite to get permanent status. Yet, after time they "hit" a wall (the citizenship test) and thus are prevented from fully enjoying citizenship status and protection. Paralleling this trend is the dramatic decrease since 2012 in demand for assistance with citizenship applications at community legal aid clinics. As noted in Nakache et al., (2020, 84), "If we consider that many of these persons do not even apply for citizenship because of (…) the common belief that they will not pass the test, the precarity they experience is much greater than what is reflected by the observed test pass rates".

Barriers to settlement in Norway

During the past two decades, and particularly after 2015, the criteria in Norway for both permanent residence and citizenship have become incrementally more onerous, motivated not only by the view that sharpened measures would incentivize integration, but also explicitly as part of broader deterrence efforts to make it less attractive to apply for asylum in Norway (Schultz 2022). Some of the new or enhanced requirements target refugees, while others apply to all but – as in Canada – have a disparate impact on immigrants with a refugee background (Eggebø et al., 2023).

For example, after years of discussion, the Norwegian Parliament in 2020 agreed to increase the required period of residence for refugees only, from three to five years, extending the window of opportunity to withdraw refugee status because the need for protection no longer exists. In addition, an income requirement introduced in 2017 means that (most) applicants for permanent residence must show earnings from the previous year corresponding, in 2023, to 296, 550 NOK (approximately 26,000 Euros) before tax. Although this threshold is a burden for many people, refugees in particular are affected adversely. As of 2020, for example, only 50 percent of refugees between the ages of 15 and 66 were employed, with women participating at significantly lower

levels in the labor market than men (Statistics Norway, 2022). A third conditionrelates to the sharpened requirements for language skills and civic knowledge. Although applicants for permanent residence have been required to attend Norwegian and civic education courses since 2005, individuals are now obliged to prove their competencies with an oral language test. As Drangsland points out, the language requirement "was legitimized within a discourse problematizing 'refugees' as 'culturally different' … and as a threat to the economic sustainability of the Norwegian welfare state" (2024, 9). Finally, a fourth condition for permanent residence relates to the applicant's criminal record. Post-2015 policies have expanded the possibility to postpone or deny an application for people with criminal convictions, according to a sliding scale – the longer the period of imprisonment or higher the fine the more time is needed before one is eligible to (re)apply for permanent residence. A punishment of 90 days imprisonment, for example, can mean a delay of two years (Immigration Regulations, 2009, §11–5).

While requirements for citizenship follow the same logic (usually eight years' residence of the previous eleven, economic self-sufficiency, civic knowledge, a clean criminal record or completion of relevant quarantine times for lesser offenses), the raising of language requirement from level A1 to B2 in the Common European Framework of Reference for Languages has been, as in the Canadian context, particularly controversial. Not only did experts dispute the link between language testing and motivation to integrate, but they also noted its exclusionary impact on the elderly, people with learning disabilities, survivors of violence and trauma as well as people with little formal education – not only because they tend to have lower levels of literacy but also because they are not accustomed to taking standardized tests (Bugge, 2021; Carlsen & Moe, 2019).

In sum, we have shown in this section how sharpened and shifting criteria for permanent residence and citizenship have deepened stratification between temporary, permanent, and citizen residents in both countries. The policies and practices of language testing and, in the Norwegian context, income demands and extended residence requirements for refugees, "(re) produce inequalities" (Drangsland, 2024, 2), denying certain immigrant groups access to the same rights and benefits enjoyed by their citizen neighbors. These include enhanced protection from deportation, full voting rights, and not least the international mobility that a Norwegian or Canadian passport provides.

Part IV: The unsettling of settled migration status: revocation of citizenship as the final frontier

Probationary immigration policies, by framing settlement as a privilege instead of a right, make permanent residence and citizenship both harder to attain and easier to lose. The emergent practice, during the past decade, o1f withdrawing the refugee status of permanent residents following travels to their country of origin has been analyzed in both the Canadian (Ellerman & Gorokhovskaia, 2020) and Norwegian (Schultz, 2022) contexts. These studies illustrate how suspicions of fraud and concerns about the integrity of the asylum system blend into the assessment of whether cessation of refugee status is appropriate based on a refugee's "voluntary re-availment" the country of nationality's protection (Refugee Convention art. 1C(1)). In the following section, we turn to how this control focus also propels the turn to denationalization as a means to punish and prevent immigration fraud. We show how, in both countries, intensified efforts

to catch "citizenship cheaters" (Birkvad, 2023, 1) have had significant consequences for many citizens with an immigrant background as well as their citizen children. The consequence of revocation efforts is a deepened stratification within citizenship status between naturalized citizens and their immediate descendants, and those with longer roots in Norway and Canada.

Citizenship revocation in Canada: procedural shortcuts as a source of precarity

Since the 1990s, there have been a series of government initiatives to redesign the citizenship revocation process in Canada. Those initiatives came into fruition for a short period of time following the entry into force of Bill C-24 in June 2015 (the Strengthening Canadian Citizenship Act) in which new grounds for revocation linked to concerns for national security were introduced. Thus, by virtue of the Canadian Citizenship Act (CCA, 1985, §10(2)), dual citizens could have their citizenship revoked if they were convicted of one of the offenses listed (i.e., acts of treason, terrorism and espionage). The constitutionality of this provision was challenged on many fronts, including on the basis that it violated the Canadian Charter because it discriminated between Canadians having dual citizenship and those with only one Canadian citizenship. However, Canadian courts did not have to render any decision in this area since these provisions were revoked in June 2017 in amendments to the CCA by the new government in power. Interestingly, much of the literature focuses on Canada's efforts and short-live experiment with citizenship revocation for crimes linked to national security (see e.g., Macklin, 2015, 2021; Winter & Previsic, 2019). In what follows, we draw attention to another understudied yet important facet of citizenship revocation: the cancellation of citizenship certificates. We also briefly highlight the negative impact of revocation, particularly for children's rights and protections.

In Canada, there is currently only one ground for citizenship revocation: citizenship obtained, retained, renounced or resumed in the context of naturalization by false representation, fraud, or by knowingly concealing material circumstances (CCA, 1985, §10(1)). Following the 2017 *Hassouna* Federal Court decision, which invalidated the existing revocation procedure as being unconstitutional, amendments to the CCA were made in 2018 to clarify the revocation process and ensure a higher degree of procedural justice.[6] Citizens now have a right to the evidence relied on in support of revocation (CCA, 1985, §10(3(c)), the right to a hearing at the Federal Court (CCA, 1985, §10(3)(d) and §10.1(1)), and to have personal considerations taken into account in the decision-making process. However, there is a parallel regulatory procedure allowing the government to circumvent the robust procedural protection embodied in the revised citizenship legislation: citizenship certificate cancellation.

The citizenship certificate is a proof of citizenship, delivered to the citizenship applicant at the citizenship ceremony (CCA, 1985, §17(1)(c)). For individuals who became Canadian through naturalization, and in the absence of a birth certificate, it is the only way to obtain a passport, pension, social insurance number etc. The Registrar of

[6] These amendments were made through the adoption of Bill C-6 (*an Act to amend the Citizenship Act and make consequential amendments to another Act*) on June 19, 2017. The provisions regarding the procedural protections in the process of citizenship revocation came into force on January 11, 2018 (IRCC 2018).

Citizenship may – through its delegated authority from the Minister – cancel a certificate if the Minister has determined that the certificate holder is no longer entitled to it, either because the holder never was a Canadian citizen or as a result of renunciation or revocation of their citizenship (Citizenship Regulations, 1993, §26(3)). It is important to note here that these Regulations do not provide individuals subjected to a certificate cancellation with rights to a judicial hearing, an independent decision-maker, or disclosure of information relevant to the decision (for more on the process, see the Federal Court decision in *Assal*, 2016, §20).

At first glance, the Registrar's powers in cancellation proceedings appear directed only at clerical or administrative errors, for example, a certificate mistakenly issued to an individual who is not a citizen and never applied for a certificate, or to an individual whose application, on its face, did not qualify them for citizenship. However, as case law reveals, certificate cancellation has also been used in cases of alleged fraud on several occasions (*Ortiz*, 2020; see also Lerer & Bogach, 2022, 315-317). The Federal Court has upheld this practice, mainly on the basis that "it is not the certificate itself that confers citizenship, but rather compliance with the Act" (*Ortiz*, 2020, §24). This is a troubling trend. Once a person has applied to be granted citizenship, has taken the oath, and has received on that occasion a citizenship certificate, the only permissible procedure in the circumstances should be a revocation procedure, not a certificate cancellation (Le Bouthillier & Nakache, 2022, 219–221).

If a person's citizenship is revoked, or their citizenship certificate cancelled, on the basis that they obtained citizenship through fraud *during the process of applying for citizenship*, that person resumes their status as permanent resident. However, if fraud occurred *during the process to apply for permanent residency*, that person is, upon revocation, considered as a "foreign national" in law (IRPA, 2001, §46(2); CCA, 1985, §10.2) and may be removed from Canada, the rationale being that he or she would not have obtained permanent resident status, let alone citizenship, without this fraud. Recently, the Federal Court ruled that citizenship revocation officers do not need to consider the consequence of removal when determining whether to revoke someone's citizenship, even if that person's removal could directly cause their children harm. This, according to the court, must however be done at a later stage, that is, once removal proceedings are commenced and the foreign national whose citizenship has been revoked is seeking remedies to prevent his/her removal (*Gucake*, 2022). It is also important to note that, as in Norway, a naturalized child can lose citizenship through no fault of their own if any aspect of the permanent residence or citizenship application was obtained by fraud on behalf of the child (confirmed by the Federal Court in the 2014 *Zakaria* decision, § 78). Thus, denaturalization is a space where international norms concerning the rights of children yield to security and deterrence-driven migration control policies.

Citizenship revocation in Norway: exposing false information from former refugees

As in Canada, the role of denaturalization in Norway has intensified in recent years, for a combination of reasons including deterrence, security concerns, and general migration control (Schultz, 2022). Following a decrease in refugee arrivals to Norway in 2016, the resources committed a year earlier to processing asylum claims were shifted to scrutinizing migrants' right to remain, with a focus on cessation of refugee status (discussed

earlier), and revocation of residence permits and citizenship primarily on grounds of fraud and criminality (Brekke et al., 2020).[7] Subjects of denaturalization are mainly former refugees who provided misleading or false information to immigration authorities – particularly concerning their country of origin (Birkvad, 2023; Utlendingsnemnda, 2023). Practice targets certain groups including nationals of Djibouti who claimed to be from Somalia, stateless Palestinians and Afghan refugees suspected of having Pakistani nationality (Utlendingsnemnda, 2023).

The Norwegian Nationality Act (NNA) (2005) introduced a provision providing that citizenship may be revoked if the applicant has purposely given incorrect information or concealed matters of material relevance (NNA §26 para 2). Following several high-profile cases involving well-integrated individuals and families who had lived in Norway for decades, the Act was amended in 2019 to require that the impact of revocation on the individual and their family be balanced against the state's interest in sanctioning "citizenship cheaters" (Birkvad, 2023, 1). In other words, instead of having a statute of limitations providing a cutoff point after which revocation cases would not be pursued, the Norwegian Parliament chose instead to temper the harsh effects of denaturalization with a proportionality assessment. A provision was also introduced to protect individuals who received citizenship before age 18 from revocation on the basis of their relatives' misdeeds, unless they are found to lack 'strong attachments' to Norway (NNA §26 para 3).

However, while length of residence is one of several factors relevant to the proportionality assessment, decisions by the Immigration Appeals Board and courts since 2020 reveal the strong and usually decisive weight granted to the state's interest in migration fraud control (Utlendingsnemnda, 2023). Well-integrated adults with extended families in Norway and no criminal records still regularly face denationalization (NOAS, 2021). In addition, an increasing number of children have lost citizenship based on their relatives' misdeeds despite the strengthened guarantees introduced in the amendments (Dagsavisen, 2022). Of the 326 citizenship revocations on grounds of fraud between 2020 and 2023, 89 involved people who had received Norwegian nationality before the age of 18.[8] The exception to the general rule protecting children from denaturalization, for those who genuinely lack a "strong attachment" to Norway, appears to be broadly applied.

What happens after a revocation decision? People who lose their Norwegian citizenship *may* be eligible for continued residence on other grounds, including "strong humanitarian considerations" or "attachments to the realm" (NIA §38) or family reunification. This is the case for 53% whose citizenship is revoked on grounds of fraud (NNA §26 para 2); of those who lose their citizenship attained as a child (NNA §26 para 3), only 22% are deemed to have a continued right to remain.[9] Individuals who are deported receive either a permanent ban on reentry, based on multiple legal infractions, or a time-limited one, particularly when they have minor children in Norway.

[7] Between 2017 and 2023, 5649 people lost their temporary or permanent residence permits in Norway on grounds of providing false or incomplete information. Statistics provided by UDI in an email to authors dated 28 February 2024.

[8] Statistics provided by the Immigration Directorate (UDI) in an email to authors. This is compared to 27 total during the years 2010–2017 (Dagsavisen, 2022).

[9] Statistics provided by the Immigration Directorate (UDI) in an email to authors.

Conclusion

Extending the concept 'probationary immigration' to the realm of citizenship, this contribution has shown the increasing stratification between and within immigrant and citizen categories in two countries widely perceived to be global models for equality and human rights, and with long traditions of facilitating the legal integration of immigrants. In both Canada and Norway, probationary immigration policies produce a "continuum of precariousness" that extends from the increasingly fragmented protection regime to sharpened and more unpredictable requirements for permanent residence and citizenship. Ultimately even citizenship has become conditional, subject to potential revocation as a punishment for immigration infractions committed many years or even generations before. The obscure legal landscape in both countries, combined with limited legal aid, is a further source of insecurity, as (im)migrants, front-line integration workers, and legal advisors struggle to navigate a complex and quickly changing terrain.

In addition to the legal mechanisms through which probationary immigration policies are pursued, we have described consequences for the human rights and protections of people affected. These range from the threat of unsafe return to profound interference in private and family life interests of people with legitimate expectations of stay, including those who attained Norwegian or Canadian citizenship as children. Thus, despite the recognition—at least by Canadian courts in some contexts- that distinctions within the citizen group are legally suspect, naturalized citizens remain differentially exposed to a roll-back in rights and potential deportation compared to 'citizens by birth'. This hierarchy of belonging produced and sanctioned by the asylum, immigration and citizenship regimes in both countries shows the exclusionary effects of bordering policies across legal status.

Abbreviations

CCA	Canadian Citizenship Act
DFN	Designated Foreign National
EU	European Union
IRPA	Immigration and Refugee Protection Act
IRCC	Immigration, Refugees and Citizenship Canada
NNA	Norwegian Nationality Act
NIA	Norwegian Immigration Act
STCA	Safe Third Country Agreement
UAMs	Unaccompanied minors
US	United States

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Authors' contributions

A1 wrote the Norwegian case study, and had responsibility for research design, while A2 contributed the Canadian case study. Both authors developed the overall analysis and approved the final manuscript.

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Availability of data and materials

The data on which this contribution is based includes publicly available laws, regulations, and jurisprudence in Canada and Norway. We have included links to relevant websites for primary sources.

Declarations

Competing interests
The authors declare that they have no competing interests.

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