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### War of the Words: Aliens, Immigrants, Citizens, and the Language of Exclusion

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# War of the Words: Aliens, Immigrants, Citizens, and the Language of Exclusion

*D. Carolina Núñez\**

I. INTRODUCTION .....	1518
II. CORPUS LINGUISTICS .....	1520
III. CITIZENS, IMMIGRANTS, AND ALIENS: DICTIONARY AND LEGAL DEFINITIONS .....	1525
<i>A. The Oxford English Dictionary</i> .....	1526
<i>B. The Immigration and Nationality Act</i> .....	1527
<i>C. Law and Dictionary: A Comparison</i> .....	1528
IV. BEYOND THE DICTIONARY: ALIENS V. IMMIGRANTS .....	1529
<i>A. Broad Usage of “Alien” and “Immigrant”</i> .....	1530
1. “Aliens” as enemies .....	1532
2. “Immigrants” as members of communities.....	1534
<i>B. Specific Usage of “Alien” and “Immigrant”</i> .....	1535
1. <i>Narrowing the search</i> .....	1535
2. “Aliens” as criminals.....	1538
<i>C. Usage of “Alien” and “Immigrant” Over Time</i> .....	1539
1. <i>Selected time periods</i> .....	1540
2. <i>Increasing association of “alien” with criminality...</i>	1544
V. BEYOND THE DICTIONARY: IMMIGRANT V. CITIZENS .....	1545
VI. ON MEMBERSHIP AND BELONGING.....	1549
<i>A. The Hierarchy of Membership</i> .....	1549
<i>B. The Language of Exclusion</i> .....	1550

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1. <i>Aliens in our midst</i> .....	1551
2. <i>The vulnerable immigrant</i> .....	1556
3. <i>Citizens: threatened heroes</i> .....	1560
VII. CONCLUSION .....	1561

## I. INTRODUCTION

Words matter. They are a chief tool of conscious, purposeful expression. Poets carefully select words that evoke an image, feeling, or sensory experience. Politicians and their speech-writers craft prose designed to inspire supporters, persuade the undecided, and undermine opponents. Attorneys construct contracts out of words that they hope are inescapably precise and firm in meaning. However, words communicate much more than their user's consciously chosen message. They also communicate much about the user's subconscious perceptions, as well as the subconscious perceptions of the community to which the user belongs. The words we use are evidence of how we think, which, in turn, ultimately determines what we do.<sup>1</sup>

Because words reveal so much about community perceptions, they are ideal specimens of analysis when exploring societal notions of membership and belonging. By putting words under the microscope, we can examine a community's shared ordering of the world. The study of language is not new to legal academia. In fact, and specifically relevant to my objective, commentators have studied the relationship between the terminology used to describe immigrants and the implicit membership narrative that the terminology carries. Kevin Johnson, for example, has discussed the use of the word "alien" to refer to noncitizens, concluding that the term "greatly influences thinking in the United States about acceptance of immigrants from other countries."<sup>2</sup> Keith Cunningham-Parmeter has written about metaphors used to describe immigrants.<sup>3</sup> His study of immigration-related Supreme Court cases

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1. See, e.g., Gerald V. O'Brien, *Metaphors and the Pejorative Framing of Marginalized Groups: Implications for Social Work Education*, 45 J. SOC. WORK EDUC. 29, 32 (2009).

2. Kevin R. Johnson, "Aliens" and the US Immigration Laws: *The Social and Legal Construction of Nonpersons*, 28 U. MIAMI INTER-AM. L. REV. 263, 264 (1996).

3. See Keith Cunningham-Parmeter, *Alien Language: Immigration Metaphors and the*

reveals the Court's metaphorical messages that "immigrants are aliens, immigration is a flood, and immigration is an invasion."<sup>4</sup> These metaphors, he argues, have social and legal consequences.<sup>5</sup>

Like Professor Cunningham-Parmeter, I am interested in examining language usage to expose the hidden meaning in words and, more specifically, human perceptions of immigrants and their acceptance in the community. However, my research differs in several ways. Most significantly, my methodology is different. Rather than analyze particular samples of written or spoken language to detect patterns and currents of hidden meaning within that sample, I look at language in the aggregate. In this paper, I employ a corpus of American English containing over 450 million words of spoken and written language drawn from television, movie, and radio transcripts; newspapers; academic texts; fiction; and popular magazines. Though this methodology is an ineffective way of identifying a specific message contained in any particular sample of language, it allows me to identify more general patterns that cross multiple genres and time spans.

In this paper, I examine and compare the usage of the words "immigrant," "alien," and "citizen" to make observations on the nature of membership and belonging in the United States. While it is perhaps intuitive that these words carry very different connotations, I show this through quantifiable data mined from the Corpus of Contemporary American English. Ultimately, I conclude that these words represent a very hierarchical and status-based view of membership in which "aliens" fall to the bottom of the linguistic hierarchy, "citizens" are at the top, with "immigrants" somewhere in between. Specifically, I show that "alien" is significantly associated with criminality, invasion, and otherness, as compared to "immigrant." "Immigrant" is associated with groups of people and communities, and, in that sense, represents a more humanized vision of the individuals it refers to. "Immigrant," however, also carries a connotation of weakness and vulnerability. That connotation is especially pronounced in language and rhetoric that pits immigrants against citizens. "Citizen" is closely associated with abstract ideals of civic-mindedness and participation. These connotations, I argue,

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*Jurisprudence of Otherness*, 79 FORDHAM L. REV. 1545 (2011).

4. *Id.* at 1549 (alteration in original).

5. *See id.*

contribute to a stratified notion of membership that facilitates the denial of rights and benefits to noncitizens.

To reach these conclusions, I begin in Part II with a description of corpus linguistics. I briefly explain the advantage of studying language through corpus linguistics and cover some of the important terminology. In Part III, I introduce the terms that I will be exploring—"alien," "immigrant," and "citizen,"—by offering dictionary and legal definitions for each term. I also explain the value of examining these terms. Parts IV and V explain my methodology and results for a series of queries run in the Corpus of Contemporary American English. In Part IV, I discuss the relative meanings of the terms "alien" and "immigrant" and show that the term "alien" carries strong negative connotations across multiple genres of language. Beyond images of extra-terrestrial invaders, "alien" also acquired a strong association with criminality. In Part V, I examine the relative meanings of the terms "immigrant" and "citizen."

Specifically, I show how "immigrant" is associated with vulnerability and "citizen" is associated with civic virtue. Part VI discusses the implications of my findings with reference to examples in the law and popular culture, and Part VII offers a brief conclusion.

## II. CORPUS LINGUISTICS

Corpus linguistics is the study of large samples ("corpora") of natural language to identify patterns and trends in language. A corpus of language is a collection of real world text.<sup>6</sup> The text comes from speech or writing that was not produced for the purpose of research or study.<sup>7</sup> This type of natural language is optimal for analysis because its speakers or writers are unaware that their words will be later analyzed and therefore are unable to alter their speech in a way that might bias results.<sup>8</sup> Rather, the creator of a corpus collects

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6. BERND HEINE & HEIKO NARROG, *THE OXFORD HANDBOOK OF LINGUISTIC ANALYSIS* 159 (2010).

7. See Mark Davies, *The 385+ Million Word Corpus of Contemporary American English (1990–2008+): Design, Architecture, and Linguistic Insights*, 14 INT'L J. CORPUS LINGUISTICS 159, 160 (2009) [hereinafter Davies, *The 385+ Million*].

8. As one commentator observed, "[W]hen one invents an example to support or disprove an argument, one is consciously monitoring one's language production. . . . The corpus-based approach, in contrast, draws upon authentic or real texts, though authenticity itself may be a cause of dispute." TONY MCENERY, RICHARD XIAO & YUKIO TONO, *CORPUS-BASED LANGUAGE STUDIES: AN ADVANCED RESOURCE BOOK 6* (Christopher N. Candlin & Ronald Carter eds., 2006).

text, whether from newspapers, movie transcripts, novels, etc., after the text has been produced. “A corpus essentially tells us what language is like, and the main argument in favour of using a corpus is that it is a more reliable guide to language use than native speaker intuition is.”<sup>9</sup> Because modern corpora often consist of tens or even hundreds of millions of words, corpus linguistics relies heavily on the use of computer algorithms to search and sort through the words in a meaningful way.<sup>10</sup> The larger and more diverse the corpus, the more representative it is of a language.<sup>11</sup> Corpus linguistics has been described as having four essential characteristics:

1. it is empirical, analyzing the actual pattern of use in natural texts;
2. it utilizes a large and principled collection of natural texts, known as a ‘corpus,’ as the basis for analysis;
3. it makes extensive use of computers for analysis, using both automatic and interactive techniques; [and]
4. it depends on both quantitative and qualitative analytical techniques.<sup>12</sup>

Corpora and their associated software allow researchers to determine the comparative frequency of a word or phrase’s usage, identify words that frequently appear near the searched word or phrase, and compare a word’s usage (and consequently its meaning) with that of another word.

For this project, I use the Corpus of Contemporary American English (“COCA”).<sup>13</sup> COCA is “the largest freely-available corpus of English, and the only large and balanced corpus of American English.”<sup>14</sup> It contains over “450 million words of text and is equally

9. SUSAN HUNSTON, *CORPORA IN APPLIED LINGUISTICS* 20 (2002).

10. Douglas Biber, *Corpus-Based and Corpus-driven Analyses of Language Variation and Use*, in *THE OXFORD HANDBOOK OF LINGUISTIC ANALYSIS* 159 (Bernd Heine & Heiko Narrog eds., 2009).

11. See MCEENERY, XIAO & TONO, *supra* note 8, at 126 (“Any selection of texts is a sample. Whether or not a sample is ‘representative,’ however, depends first of all on the extent to which it is selected from the range of text types in the target population.”).

12. See DOUGLAS BIBER ET AL., *CORPUS LINGUISTICS: INVESTIGATING LANGUAGE STRUCTURE AND USE* 4 (1998) (alteration in original).

13. Mark Davies, *The Corpus of Contemporary American English: 450 Million Words, 1990–2012*, CORPUS.BYU.EDU, <http://corpus.byu.edu/coca/> (last visited Jan. 16, 2014) [hereinafter Davies, *Corpus*].

14. *See id.*

divided among spoken, fiction, popular magazines, newspapers, and academic texts.”<sup>15</sup> The text is evenly distributed among included years. COCA includes twenty million words, tagged as parts of speech,<sup>16</sup> for each year from 1990 to 2012, and the corpus is updated regularly.<sup>17</sup> Thus, with a single search, users may search, among other things, across more than twenty years of transcripts of *All Things Considered*, *Today Show*, and *Oprah*; articles in *Time*, *Good Housekeeping*, and *Fortune*; news reporting from the *New York Times*, *USA Today*, and the *San Francisco Chronicle*; short stories and plays from literary magazines; movie scripts; and academic journals.<sup>18</sup>

Users access COCA via the Internet through a flexible interface that facilitates highly customized searches.<sup>19</sup> Users may employ simple frequency queries to determine the recurrence with which a word appears across the included genres or years.<sup>20</sup> Users may also search for words, limited by part of speech, that frequently appear with the search term.<sup>21</sup> For example, users may search for adjectives within a ten-word window of a word for the year 1998.<sup>22</sup> COCA is especially useful in its ability to compare the usage of two words. This is valuable to “tease apart slight differences between near-synonyms (e.g. *small* and *little*), or to provide insight into culturally-defined differences between two terms (e.g. *girls* and *boys*).”<sup>23</sup> This function is ideal for my purposes in this paper. COCA allows me to explore the difference in the usage of the words “alien,”

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15. *Id.* Internet sources are not included in COCA for various reasons which the creator, Mark Davies, has catalogued elsewhere. See Davies, *The 385+ Million*, *supra* note 7, at 159, 162–63. Inclusion of Internet text would have skewed results toward later years (blogs, for example, did not exist until at least 2000), and it would be nearly impossible to ensure that text gathered from the Internet was indeed American English. See *id.*

16. Davies, *The 385+ Million*, *supra* note 7, at 164. COCA’s tags are generated by the seventh generation Constituent Likelihood Automatic Word-tagging System (“CLAWS-7”). *Id.* For a discussion of CLAWS, see Roger Garside & Nicholas Smith, *A Hybrid Grammatical Tagger: CLAWS 4*, in CORPUS ANNOTATION: LINGUISTIC INFORMATION FROM COMPUTER TEXT CORPORA 102 (Roger Garside, Geoffrey N. Leech & Tony McEnery eds., 1997); Roger Garside, *The Claws Word-Tagging System*, in THE COMPUTATIONAL ANALYSIS OF ENGLISH 30 (Roger Garside, Geoffrey Leech & Geoffrey Sampson eds., 1987).

17. Davies, *Corpus*, *supra* note 13.

18. Davies, *The 385+ Million*, *supra* note 7, at 161–62.

19. See *id.*

20. *Id.* at 169.

21. *Id.* at 174.

22. See *id.*

23. *Id.* at 173.

“immigrant,” and “citizen” to understand the underlying association between these words and notions of membership and belonging.

A brief explanation of basic functions in COCA and some terminology is helpful at this stage. COCA allows users to enter a search term called the “node.”<sup>24</sup> Users enter the word they are interested in better understanding. COCA will then search for “tokens,” or occurrences of the node word in the database and compile the requested information for those tokens.<sup>25</sup> For example, a search for “awesome,” results in 4193 tokens.<sup>26</sup> COCA can compare the number of tokens of “awesome” that occur in the newspaper genre to those in the academic genre.<sup>27</sup> COCA can also compare the number of tokens across years.

In this paper, I will be relying heavily on “collocates.”<sup>28</sup> A collocate is a word that appears near the node word.<sup>29</sup> A collocate that appears frequently with the node word provides helpful clues to the node word’s meaning and usage.<sup>30</sup> COCA allows users to specify how far a collocate may be from the node word.<sup>31</sup> Thus, users may search for collocates within two words of the node word or within ten (or more) words of the node word. COCA compiles the results in a list that may be sorted by frequency or relevance.<sup>32</sup>

Sorting a list of collocates by frequency simply places the collocates that appear most frequently with the node word at the top of the list. This can sometimes be useful. If the user does not limit the search in any way, however, sorting collocates by frequency may result in common articles, conjunctions, prepositions, and verbs

24. *Id.* at 174.

25. *Id.* at 165.

26. “Awesome” Search Results, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/> (last visited Jan 16, 2014).

27. Davies, *The 385+ Million*, *supra* note 7, at 165.

28. A corpus-based approach is especially useful for collocation inquiries in ways that traditional linguistic theory falls short. See Michael Barlow, *Corpus Linguistics and Theoretical Linguistics*, 16 INT’L J. CORPUS LINGUISTICS 3, 7 (2011) (“The first and most obvious contribution [of corpus linguistics] is in highlighting the pervasiveness and importance of collocations.”).

29. See HUNSTON, *supra* note 9, at 68–69 (“Collocation is the tendency of words to be biased in the way they co-occur.”).

30. *Id.*

31. Davies, *The 385+ Million*, *supra* note 7, at 159–90.

32. *Id.*



(e.g., “the,” “and,” “of,” and “is”) rising to the top of the list of collocates.<sup>33</sup>

Instead, users may sort the collocates by relevance.<sup>34</sup> When a user has entered a single node word into the search query (rather than two terms for comparison), relevancy is calculated by the “Mutual Information score.”<sup>35</sup> The Mutual Information score is a measure of how closely linked the two words are.<sup>36</sup> It accounts for, among other things, the size of the corpus, the number of times the node word appears (whether alone or with the collocate) in the corpus, the number of times the collocate appears in the corpus, and the number of times the collocate appears with the node word.<sup>37</sup>

When a user has entered two node words for comparison of their collocates, relevancy is calculated by comparing the association between the collocate and the first node word to the association between the collocate and the second node word.<sup>38</sup> Thus, a high relevancy score of more than one for a collocate indicates that the node word appears with that collocate at a higher rate than it appears with the competing node word. A relevancy score of less than one indicates that the collocate has a stronger association with the competing node word. A relevance score of one indicates that the collocate is equally associated with both competing node words.

An example is helpful here. A comparison of the collocates of “small” and “little” results in two lists of collocates. “Amount”

33. *Id.*

34. *Id.*

35. *Id.*

36. *Id.*

37. COCA provides the formula for the Mutual Information score:  $MI = \log((AB * sizeCorpus)/(A * B * span))/\log(2)$ . In this formula, “A” is the frequency of the node word, “B” is the frequency of the collocate, “AB” is the frequency of the collocate near the node word, “sizeCorpus” is the size of the corpus, “span” is the maximum number of words within which the collocate appears (as set by the user), and “log(2)” is the log10 of the number 2. See *Mutual Information*, CORPUS.BYU.EDU, <http://corpus.byu.edu/MutualInformation.asp> (last visited Jan. 16, 2014).

38. This score takes into account the frequency with which each node word appears in the corpus, the frequency with which each collocate appears with the first node word, and the frequency with which each collocate appears with the competing node word. The formula for calculating the relevance score for any collocate in a comparison search is  $(Frequency\ of\ collocate\ with\ node / Frequency\ of\ collocate\ with\ competing\ node) / (Frequency\ of\ node / Frequency\ of\ competing\ node)$ . See *Mutual Information*, CORPUS.BYU.EDU, [http://corpus.byu.edu/coca/help/display\\_words\\_compare\\_e.asp?h=y](http://corpus.byu.edu/coca/help/display_words_compare_e.asp?h=y) (last visited Jan. 16, 2014) (describing the calculations for each of the values that appear in the results of a comparison search).

appears with “small” 1400 times, but it appears with “little” only twenty times. This is especially significant because “small” appears in the corpus roughly half as many times as “little” appears in the corpus. Thus, “amount” is more strongly associated with “small” than it is with “little” and has a high relevancy score. This type of information is very useful in distinguishing between the usage, and therefore the meaning, of compared node words.

### III. CITIZENS, IMMIGRANTS, AND ALIENS: DICTIONARY AND LEGAL DEFINITIONS

The words “citizen,” “immigrant,” and “alien” are particularly appropriate words to explore for my purposes. First, these words are very much tied to ideas of membership in the United States.<sup>39</sup> Because state borders play such an important role shaping the community with which we associate and the sovereign to which we are loyal, terms that relate to individuals’ status with respect to a nation-state and its borders are particularly relevant to the idea of belonging.<sup>40</sup> Second, these terms, in addition to dictionary meanings, have specific legal definitions, with defined rights associated with them.<sup>41</sup> The technical, legal nature of these words

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39. See, e.g., Linda S. Bosniak, *Membership, Equality, and the Difference That Alienage Makes*, 69 N.Y.U. L. REV. 1047, 1055 (1994) (analyzing the significance of immigration status on access to rights: “In some contexts, alienage matters a great deal; in others, it matters very little or not at all.”); Carolina D. Núñez, *Fractured Membership: Deconstructing Territoriality to Secure Rights and Remedies for the Undocumented Worker*, 2010 WIS. L. REV. 817, 820 (2010) (discussing “the tension between valuing formal membership in our society, represented by authorized status, and recognizing de facto membership through presence within the country’s geographic borders”).

40. See, e.g., THOMAS ALEXANDER ALEINIKOFF ET. AL., *IMMIGRATION AND CITIZENSHIP: PROCESS AND POLICY* 37 (7th ed. 2011) (describing a visual scheme to represent membership consisting of concentric circles in which “citizens form the inner-most membership ring, with categories of noncitizens (residents, visitors, unauthorized migrants, aliens seeking entry) filling in outer rings”).

41. The Supreme Court has described the attachment of legal rights to status:

The alien, to whom the United States has been traditionally hospitable, has been accorded a generous and ascending scale of rights as he increases his identity with our society. Mere lawful presence in the country creates an implied assurance of safe conduct and gives him certain rights; they become more extensive and secure when he makes preliminary declaration of intention to become a citizen, and they expand to those of full citizenship upon naturalization.

*Johnson v. Eisentrager*, 339 U.S. 763, 770 (1950).

gives them an aura of neutrality and objectivity<sup>42</sup> that can be measured against their actual usage in everyday language.

*A. The Oxford English Dictionary*

In contemporary English, “immigrant,” as a noun, generally has one meaning:

One who or that which immigrates; a person who migrates into a country as a settler.<sup>43</sup>

By contrast, “alien” as a noun has close to ten meanings, including:

A person who does not belong to a particular family, community, country, etc.; a foreigner, a stranger, an outsider.

A foreigner who is not a naturalized citizen of the country where he or she is living; a foreign national.

A person who is separated or excluded from a particular community, country, custom, etc.

A person who or thing which is opposed, repugnant, or unaccustomed to a specified person or thing; a stranger to.

An (intelligent) being from another planet; an extraterrestrial.<sup>44</sup>

“Citizen” as a noun has two meanings relevant here:

An inhabitant of a city or (often) of a town; esp. one possessing civic rights and privileges, a burgess or freeman of a city.

A member of a state, an enfranchised inhabitant of a country, as opposed to an alien; in U.S., a person, native or naturalized, who has the privilege of voting for public offices, and is entitled to full protection in the exercise of private rights.<sup>45</sup>

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42. While dictionaries once provided guidance on how words ought to be used, contemporary dictionaries strive to derive definitions from the common usage of the word. See PETER M. TIERSMA, *LEGAL LANGUAGE* 115 (2000) (discussing the difference between prescriptive and descriptive definitions). Nonetheless, definitions cannot always capture the nuanced usage of a word. Unlike contemporary dictionary definitions, legal definitions are prescriptive in nature; they prescribe how the word will be used throughout the statute. *Id.* at 116. However, as described later in this Article, a prescriptive legal definition does not erase the connotations present in common usage.

43. Oxford English Dictionary 65 (3d ed. 2012).

44. *Id.* at 218–19.

45. *Id.* at 442.

### *B. The Immigration and Nationality Act*

These three terms appear numerous times in the Immigration and Nationality Act (“INA”). Unfortunately, the INA is not as clear as the Oxford English Dictionary (“OED”) in its definitions.<sup>46</sup> Under the INA,

The term “alien” means any person not a citizen or national of the United States.<sup>47</sup>

The INA does not specifically define “citizen,” but it does provide the conditions under which someone may be born a citizen or may become a citizen after birth.<sup>48</sup> The INA codifies the Constitution’s guarantee of territorial birthright citizenship:

The following shall be nationals and citizens of the United States at birth: . . . a person born in the United States, and subject to the jurisdiction thereof.<sup>49</sup>

The INA also provides numerous alternative conditions under which children may be citizens of the United States despite being born outside the territory.<sup>50</sup> For example, a child born to two U.S. citizen parents is a U.S. citizen at birth if at least one of her parents has had a residence in the United States prior to the child’s birth.<sup>51</sup>

The INA defines “immigrant” rather clumsily:

The term “immigrant” means every alien except an alien who is within one of the following classes of nonimmigrant aliens.<sup>52</sup>

There are numerous provisions detailing the conditions under which an individual is considered a “nonimmigrant alien.” For example, an individual who comes to the United States to study at a qualified educational institution on a temporary basis is a nonimmigrant.<sup>53</sup> A person who comes to the United States to

46. For a taxonomy of alienage terms, see Karen Nelson Moore, *Aliens and the Constitution*, 88 N.Y.U. L. Rev. 801, 806–23 (2013) (exploring the applicability of constitutional protections to various classes of aliens).

47. Immigration and Nationality Act (INA) § 101(a)(3), 8 U.S.C. § 1101 (2012) (“The term ‘alien’ means any person not a citizen or national of the United States.”).

48. See INA §§ 301–46.

49. INA § 301(a).

50. See, e.g., INA §§ 301, 309, 8 U.S.C. §§ 1401, 1409 (2012).

51. INA § 301(c).

52. See INA § 101(a)(15).

53. See INA § 101(a)(15)(F)(i).

temporarily visit for business or pleasure is also a nonimmigrant.<sup>54</sup> An examination of all the categories of “nonimmigrants” reveals that the INA uses the term “immigrant” to refer to noncitizens who intend to permanently reside in the United States.<sup>55</sup>

*C. Law and Dictionary: A Comparison*

It is worth making several observations about the dictionary and legal definitions of the terms “alien,” “citizen,” and “immigrant.” First, the OED includes technical definitions for “alien” and “citizen” that match or relate to their legal meanings. However, the OED does not include a technical definition for “immigrant” that relates to its legal meaning. This suggests that the terms “alien” and “citizen” are sometimes used in their technical sense in common usage, but the technical legal meaning of “immigrant” is not.

Second, the OED technical definition of “alien” closely parallels the INA definition. Both the OED and INA define an alien as anyone who is not a citizen. Thus, “alien” and “citizen” are mutually exclusive of each other in both sources. That is, under both the OED and INA, an individual can never be both a citizen and an alien.

Third, the OED defines “citizen” with reference to the rights that a citizen has, while the INA defines “citizen” with reference to the conditions an individual must satisfy to become a citizen. This distinction highlights the complexity of defining words that are closely attached to concepts of belonging and membership.<sup>56</sup>

Finally, the OED definition of immigrant does not exclude individuals who might also fall within the OED definitions of “citizen” and “alien.” That is, under the OED definitions, an immigrant may also be a citizen or an alien. Interestingly, this is not true for the legal definition of “immigrant.” Because the INA limits

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54. See INA § 101(a)(15)(B).

55. The INA generally uses the term “immigrant” to refer to someone that is seeking or has authorization to reside permanently in the United States. The specific definition of “immigrant,” however, may also include individuals who intend to reside or are residing in the United States without authorization. INA § 101(a)(15). The definition of immigrant includes “every alien” that does not qualify as a nonimmigrant. *Id.* Because the term nonimmigrant does not include individuals who intend to reside or are residing in the United States without authorization, those individuals would appear to be included in the definition of “immigrant.”

56. See, e.g., LINDA BOSNIAK, *THE CITIZEN AND THE ALIEN: DILEMMAS OF CONTEMPORARY MEMBERSHIP* (2006) (analyzing citizenship as it relates to membership and exploring the various ways to conceptualize citizenship).

the definition of “immigrant” to “every *alien*” that is not a nonimmigrant,<sup>57</sup> an immigrant cannot also be a citizen. The term immigrant and citizen are mutually exclusive under the INA.

Though the INA and OED are valuable tools for deciphering the possible meanings of a word, they cannot fully capture their current usage in oral and written text.<sup>58</sup> A corpus-based analysis of these terms, however, can further illuminate their everyday usage and reveal which, if any, of the dictionary and legal meanings these words most often represent.<sup>59</sup>

In Parts IV and V below, I discuss the usage of “alien,” “immigrant,” and “citizen” in contemporary American English. To do this, I use COCA to search for the collocates of the three terms and compare them to each other. As discussed in Part II above, a comparative query allows the user to compare the collocates that occur with each of the entered terms. This helps highlight the nuanced differences between similar words.

#### IV. BEYOND THE DICTIONARY: ALIENS V. IMMIGRANTS

The first step of my inquiry is a simple comparison of “alien” and “immigrant.” As discussed above, these two terms are not mutually exclusive under their dictionary definitions, but they are mutually exclusive in their legal definitions. A COCA comparison of the collocates of these words will shed light on whether these terms, as used in everyday language, track their dictionary or legal definitions. Because the term “alien” has so many definitions, including that of an extra-terrestrial being, I first performed two different searches in COCA. The first search seeks to identify the collocates of the most common usage of the word “alien,” and the second attempts to isolate the collocates of “alien” when it specifically refers to non-citizens. I discuss the results of these searches in Parts IV.A and IV.B below. In Part IV.C, I discuss a third set of queries that compares the usage of “alien” and “immigrant” over time. Interestingly, these queries reveal that

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57. See INA § 101(a)(3).

58. BIBER ET AL., *supra* note 12, at 26–27 (“The central question in lexicographic work is the meaning of words.”).

59. See HUNSTON, *supra* note 9, at 20 (“A corpus essentially tells us what language is like, and the main argument in favour of using a corpus is that it is a more reliable guide to language use than native speaker intuition is.”).

“alien” appears to be increasingly associated with criminality over time.

*A. Broad Usage of “Alien” and “Immigrant”*

To begin, I searched the entire COCA database<sup>60</sup> for collocates, not limited by part of speech, within four words of “alien” and “immigrant.”<sup>61</sup> COCA allows users to sort results in two ways: by frequency or by relevance. Because sorting by frequency can produce a list of common prepositions, articles, and conjunctions,<sup>62</sup> I sorted the results by relevance. This sorting mechanism places collocates with higher relevance scores above those with lower relevance scores.<sup>63</sup> Thus, a word that appears frequently with “alien” but not at all with “immigrant” would appear near the top of the list of collocates of “alien.” Likewise, a word that appears frequently with “immigrant” but not at all with “alien” would appear near the top of the list of collocates for “immigrant.”

Perhaps unsurprisingly, “alien” has a high incidence of collocates related to extra-terrestrial beings, and “immigrant” is associated with terms that refer to groups of people.<sup>64</sup> Table 1, below, shows the top twenty-five results for the two words.

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60. As discussed above, this includes a variety of oral and written English language sources, including fiction, magazine, newspaper, academic, and spoken (television and radio, for example) language.

61. The query and results are available online on COCA’s website. *Alien v. Immigrant Results*, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=24894309> (last visited Jan. 16, 2014) [hereinafter *Alien v. Immigrant Results*].

62. For example, if sorted by frequency, the top collocates of alien and immigrant include “the,” “of,” “and,” and “in.”

63. See *supra* Part II.

64. See *Alien v. Immigrant Results*, *supra* note 61.

**Table 1.** Top twenty-five collocates of *alien* and *immigrant* sorted by relevance.

<i>Alien</i>		<i>Immigrant</i>	
	<i>Collocate</i>		<i>Collocate</i>
1	INVASIVE	1	ELDERS
2	PLANET	2	FAMILIES
3	ABDUCTION	3	KOREAN
4	ENEMY	4	POLISH
5	ABDUCTIONS	5	COMMUNITIES
6	INVASION	6	HAITIAN
7	COMPLETELY	7	VISAS
8	SPACECRAFT	8	MINORITY
9	TOTALLY	9	REFUGEE
10	CREATURE	10	U.S.-BORN
11	SPACESHIP	11	AID
12	WORLDS	12	LATINOS
13	SEDITION	13	IRISH
14	EYES	14	AFRICAN
15	VISITORS	15	FIRST-GENERATION
16	TORT	16	YOUTHS
17	INVADERS	17	LATINO
18	BEINGS	18	VIETNAMESE
19	EARTH	19	LOW-INCOME
20	CIVILIZATIONS	20	ADOLESCENTS
21	CREATURES	21	ADAPTATION
22	UTTERLY	22	MOTHERS
23	CIVILIZATION	23	ADVOCACY
24	CONCEPT	24	WORKING-CLASS
25	CRAFT	25	ITALIAN



The results shown in Table 1 underscore the comparatively strong association between the word “alien” and non-humans or otherwise hostile enemies.<sup>65</sup> Collocates that are associated with “alien” but not with “immigrant” include “enemy,” “abduction,” “spacecraft,” “creature,” “invaders,” “sedition,” and “invasion.”<sup>66</sup> In contrast, collocates of “immigrant” include “elders,” “families,” “Korean,” and “communities.” Though it is easy to draw several inferences from the initial list of collocates, reviewing the specific context in which these terms arise ensures that these inferences are accurate and illuminates the difference in connotations between “alien” and “immigrant.”

### 1. *“Aliens” as enemies*

A review of the context for the collocates of “alien” reveals a couple of important observations. First, “alien” is often used to refer to harmful extra-terrestrials or to trigger related imagery. Second, even where “alien” arises in a context unrelated to extra-terrestrials, the term often relates to harmful outsiders and enemies.

*a. Aliens as extra-terrestrials.* As intuition (and a cursory glance at the list of collocates) might suggest, the term “alien” is strongly associated with concepts related to extra-terrestrial beings. Terms like “invasion,” “creature,” “spaceship,” and “abduction,” appear at the top of the list of collocates. These collocates have high relevancy scores. Thus, though “abduction” appears fifty-eight times as a collocate of “alien,” it does not appear at all as a collocate of “immigrant.”<sup>67</sup> Similarly, “invasion” appears eighty-four times with “alien,” and only once with “immigrant.”<sup>68</sup> This paints a fairly obvious picture: aliens are harmful non-humans, while immigrants are comparatively benign.

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65. Even a simple search for collocates without comparisons reveal this strong association. A search for terms found within four words of alien, sorted by frequency, results in a very similar list of tokens, including “species,” “illegal,” “ship,” “space,” “invasive,” and “invasion.” This query and its results are available at *Alien Collocates Sorted by Frequency*, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=24934502> (last visited Jan. 16, 2014) [hereinafter *Alien Collocates by Frequency*].

66. See *Alien v. Immigrant Results*, *supra* note 61.

67. *Alien Collocates by Frequency*, *supra* note 65.

68. *Id.*

Studying “alien” and its collocates in context confirms the strong association between “alien” and extra-terrestrial imagery. For example, “invasion” appears near the top of the list of collocates for “alien.” “Invasion” is often used with “alien” in the phrase “alien invasion.”<sup>69</sup> This phrase appears in descriptions of science fiction movie or book plots. A typical excerpt of text appears in a 2007 *New York Times* article describing a movie that, according to the article, was “based on the video game about an alien invasion.”<sup>70</sup> A 2003 movie guide in the *Atlanta Journal Constitution* includes the following text: “In this Japanese thriller, Takeshi Kaneshiro plays an assassin who accidentally wounds a woman who tells him she has been sent from the future to prevent an alien invasion.”<sup>71</sup>

Notably, the phrase “alien invasion” has also filtered into the immigration context. For example, an excerpt from a CNN television transcript includes, “Tonight, illegal alien invasion. Two days before a presidential summit on immigration reform, Mexican President Vicente Fox says he doesn’t want to talk immigration.”<sup>72</sup> Text from the *Denver Post* includes, “President Obama apparently doesn’t know how bad the illegal alien invasion is. . . . He should send at least 50,000 armed troops to the border to protect the citizens of this country.”<sup>73</sup>

“Creature” is another collocate of “alien” that illustrates the same usage.<sup>74</sup> An example is the following excerpt from a piece of fiction writing in a science fiction periodical: “‘Did you actually meet truly intelligent alien creatures?’ ‘Very intelligent aliens,’ Sam said.”<sup>75</sup> A fiction piece includes the same collocate: “It had a picture of an alien creature on it, with a green face with worms gushing out of its mouth.”<sup>76</sup>

*b. Aliens as harmful outsiders.* Even where “alien” is used in ways that do not relate to extra-terrestrials, the collocates suggest a negative connotation. For example, “invasive” is highly associated with “alien” (but not at all associated with “immigrant”). Inspection

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69. See *Alien v. Immigrant Results*, *supra* note 61, at collocate 6 of “alien.”

70. See *id.* at Token 22 for “invasion” as a collocate of “alien.”

71. See *id.* at Token 42 for “invasion” as a collocate of “alien.”

72. See *id.* at Token 27 for “invasion” as a collocate of “alien.”

73. See *id.* at Token 11 for “invasion” as a collocate of “alien.”

74. See *id.* at collocate 10 of “alien.”

75. See *id.* at Token 8 for “creatures” as a collocate of “alien.”

76. See *id.* at Token 23 for “creature” as a collocate of “alien.”

of the context of these collocates reveals the usage of the word “alien” in academic language to refer to non-native, harmful species of plants or animals. Such a usage is found in a 2011 issue of *BioScience*: “Alien invasive species have become a major cause of biodiversity loss and can result in high costs for ecosystem recovery.”<sup>77</sup>

Another collocate of “alien” that illustrates the usage of “alien” outside the extra-terrestrial context is “sedition.”<sup>78</sup> “Sedition” is most often used with “alien” when referring to the Alien and Sedition Acts. For instance, an excerpt from a *New York Times* article includes the following: “His brief on behalf of the Guantanamo detainees is a catalog of government overreactions to foreign and domestic threats, from the Alien and Sedition Acts of 1798 through the McCarthy period of the 1950’s.”<sup>79</sup> It is unlikely that the pairing of “alien” and “sedition” in the title of an Act of Congress has significantly shaped the meaning of “alien.” However, this example illustrates another historical incidence in which the term “alien” has been associated with criminal behavior.<sup>80</sup>

## 2. “Immigrants” as members of communities

The use of “immigrant” in context reveals a very different image. While “alien” conjures images of enemies and extra-terrestrials, “immigrant” has a decidedly more human connotation. As the list of collocates in Table 1 suggests, immigrants are not absolute outsiders. Many of the collocates, such as “families,” “communities,” “Polish,” and “African,” are much more humanizing than are the collocates of “alien.” The comparative association between these humanizing collocates and “immigrant” is substantial. The word “families,” for example, appears within four words of “immigrant” 253 times. It appears within four words of “alien” only once. “Communities” appears within four words of “immigrant” 243 times, but only three times with “alien.” The message is that immigrants form communities and families, but aliens do not.

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77. See *id.* at Token 1 for “invasive” as a collocate of “alien.”

78. See *id.* at collocate 13 of “alien.”

79. See *id.* at Token 10 for “sedition” as collocate of “alien.”

80. It is worth noting that COCA is a corpus of *contemporary* American English, and therefore includes only modern references to the Alien and Sedition Acts.

A closer look at the usage of “immigrant” in context further supports the existence of this narrative. For example, a brief perusal of the instances in which “families” appears as a collocate of “immigrant” reveals that the phrase “immigrant families” arises frequently across all genres. A 2011 letter to the editor of a newspaper states, “If family values and human rights don’t make sense, perhaps the economics of what we are doing to immigrant families does.”<sup>81</sup> An excerpt from an academic article includes, “[F]urther investigation is required in order to understand the many changes in family dynamics among immigrant families.”<sup>82</sup> A piece of fiction writing also uses the phrase: “For ten cents, the MTA shuttled them in from every neighborhood of the city—yankees and immigrant families, colored people, and servicemen on leave.”<sup>83</sup>

### B. Specific Usage of “Alien” and “Immigrant”

Critics might argue that the search above does not account for the specific meaning of “alien” at issue here. The query performed, the argument might go, simply focuses on the connotations of “alien” as it is most often used. When used in the immigration context, the word “alien” may have a more neutral meaning. This argument, while intuitively appealing, does not fully account for the reality that connotations can carry across multiple meanings of the same word. The mere fact that the word “alien” is strongly associated with extra-terrestrials and related images suggests that, whatever the intended usage, the word carries that connotation. This is specifically illustrated by the phrase “alien invasion.” The phrase, most likely derived from the meaning of “alien” associated with extra-terrestrial concepts, has bled into the immigration debate. In any event, isolating the usage of the word “alien” in the context of immigration and citizenship offers additional insights.

#### 1. Narrowing the search

In my second query, I attempted to eliminate or at least reduce the influence of the extra-terrestrial meaning of “alien.” I did this by (1) eliminating certain genres of language, (2) limiting my search by

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81. See *Alien v. Immigrant Results*, *supra* note 61, at Token 13 for “families” as a collocate of “immigrant.”

82. See *id.* at Token 145.

83. See *id.* at Token 136.

part of speech, and (3) showing only those collocates that reached a minimum frequency.

I narrowed my query to exclude language from fiction sources because they are more likely than the other genres to use the word “alien” to refer to extra-terrestrials and related concepts. I also excluded academic text to ensure that the results for either “immigrant” or “alien” would not be biased by their purely legal meaning. After all, my interest here is to examine the common cultural meaning of the words.

I also limited my results to those collocates that appear at least twenty times with *both* of the searched words. In other words, I limited results to only those words that are collocates of “alien” *and* “immigrant.” This minimum threshold for the frequency of collocates increases the chance that query will return results associated with the immigration-related meaning of “alien.” The following example helps illustrate how this adjustment limits the results to more relevant usage of “alien.” “Spacecraft” appears in Table 1 above as a collocate of “alien” that appears numerous times with “alien,” but does not appear as a collocate of “immigrant.” Limiting my results to only those collocates that appear with both “alien” and “immigrant” eliminates “spacecraft” from the list of collocates. The same is true for other collocates of “alien” that appear in Table 1, including “invasive,” “creature,” and “invasion.”

Limiting the results to words that are collocates of both “immigrant” and “alien” would move common articles, conjunctions, prepositions, and verbs to the top of the list. To avoid this, I limited results to collocates that are adjectives.<sup>84</sup>

Adjectives that appear within four words of any form of “alien” and any form of “immigrant” in spoken, magazine, and newspaper language, sorted by relevance, and limited to collocates that appear at least twenty times with both words<sup>85</sup> appear in Table 2 below.<sup>86</sup>

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84. I also eliminated nouns to further isolate the meaning of “alien” to its immigration-related meaning. There are many nouns that may be used with the extra-terrestrial meaning of “alien” that may also appear with “immigrant.” One example of such a collocate is “culture.” The query and results of a search that includes nouns are available online on COCA’s website at *Alien v. Immigrant Adjectives & Nouns*, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=24912260> (last visited Jan. 16, 2014).

85. The query and results are available online on COCA’s website. *Alien v. Immigrant Results 2*, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=26696924> (last visited Jan. 16, 2014) [hereinafter *Alien v. Immigrant Results 2*].

**Table 2.** Collocates (adjectives) of any form of *alien* and *immigrant* found in spoken, magazine, and newspaper sources, sorted by relevance, limited to those appearing at least twenty times for both node words.

<i>Alien</i>		<i>Immigrant</i>	
	<i>Collocate</i> ( <i>collocation score</i> )		<i>Collocate</i> ( <i>collocation score</i> )
1	CRIMINAL (4.4)	1	NEW (5.9)
2	ILLEGAL (1.1)	2	LEGAL (3.9)
3	OTHER (.6)	3	UNDOCUMENTED (2.8)
4	AMERICAN (.5)	4	AMERICAN (2.1)
5	UNDOCUMENTED (.4)	5	OTHER (1.7)
6	LEGAL (.3)	6	ILLEGAL (.9)
7	NEW (.2)	7	CRIMINAL (.2)

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86. By limiting the results to those that appear at least twenty times, I have significantly reduced the number of results. Admittedly, these results do not fairly represent the full spectrum of words that appear with “immigrant” and “alien,” and therefore do not comprehensively capture their meaning. I have mitigated the bias inherent in these results by including and discussing a broader comparison of “immigrant” and “alien” in Part IV.A and Table 1 above. Here I am solely interested in capturing the node words’ collocation with a limited and identical set of words. This allows me to more clearly contrast the relative association of “immigrant” and “alien” with concepts of criminality.

## 2. “Aliens” as criminals

A couple of observations about Table 2 are worth exploring. First, the results suggest that my search has successfully identified uses of the terms “alien” and “immigrant” that are related to each other: the results for “alien” are devoid of any obvious connection to its extra-terrestrial meaning. With a few exceptions, the context of the results confirms this. As might be expected, most of the results identifying “criminal” and “illegal” as a collocate of “alien” are excerpts of language describing non-citizens who do not have authorization to be present in the United States or who have committed crimes. For instance, a 2001 television news broadcast included the following: “Many of these criminal aliens have extensive histories of brutal violent crime and pose a serious danger to society.”<sup>87</sup> Similarly, a 2009 *USA Today* article included, “Key members of that cell were illegal aliens.”<sup>88</sup> “American” frequently appears with “alien” when referring to noncitizens’ relationships to U.S. citizens. Examples include, “How many more generations of illegal aliens are the American taxpayers going to have to support?”<sup>89</sup> and “It would allow illegal aliens to receive free American health care . . . .”<sup>90</sup> The only listed collocate of “alien” that appears to include tokens relating to extra-terrestrials is “other.” However, as described below, “other” does not have a strong enough association with “alien” to warrant study.

Second, some of the collocates for each term have extremely weak relevance scores. For example, “undocumented” as a collocate for “alien” has a relevance score of .4. As discussed earlier, relevance score of less than 1 means that the collocate has a higher association with the comparison search term.<sup>91</sup> This is true here; though “undocumented” is listed as a collocate of “alien,” it also appears as a collocate of “immigrant,” and its relevance score there is 2.8. Thus, “undocumented” is better understood as a collocate of “immigrant” rather than “alien” because it is more strongly associated with

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87. See Alien v. Immigrant Results 2, *supra* note 85, at Token 52 for “criminal” as a collocate of “alien.”

88. See *id.* at Token 79 for “illegal” as a collocate of “alien.”

89. See *id.* at Token 3 for “American” as a collocate of “alien.”

90. See *id.* at Token 5.

91. See *supra* Part II.

“immigrant” than it is with “alien.” The second-listed collocate for “alien” is “illegal.” However, its relevance score is only 1.1—only slightly above 1, at which point a collocate can be said to be equally associated with the node words.<sup>92</sup> Thus, “illegal” is only slightly more likely to appear with “alien” than with “immigrant.” The most significant collocate of “alien” (when compared to “immigrant”), then, is “criminal.” The most significant collocates of “immigrant” (when compared to “alien”) are “new” and “legal.”

The implications are fairly obvious. Even eliminating the use of the word “alien” to refer to extra-terrestrial beings, “alien” and “immigrant” have vastly different connotations in contemporary American English as represented by newspaper, spoken, and magazine text. The message of each word is clear: “aliens are criminals, and immigrants are legal.” This might have been obvious without resorting to corpus linguistics (especially in light of the political rhetoric associated with the terms “illegal alien” and “undocumented immigrant”). However, a corpus-based analysis confirms what might have been popular intuition and quantifies the strength of each word’s relative connotation. Most importantly, however, the results in Table 2, when combined with those of Table 1, show that the negative connotation associated with “alien,” a term that legally refers merely to a non-citizen, is not merely derived from the other meanings of “alien.” The cultural context for “alien,” even when merely referring to a noncitizen, is the message that “aliens are criminals.”

### C. Usage of “Alien” and “Immigrant” Over Time

In addition to comparing the collocates of “alien” and “immigrant” for the entire time period for which COCA has collected text, I conducted a time-specific comparison of their collocates. My searches described above covered all text collected for 1990 through 2012. To test whether the results of my more limited search (that sought to exclude the meanings of “alien” associated with extra-terrestrial concepts, described in Part IV.B above) were being skewed by any particular time period, I performed several additional searches, this time limiting results to those for certain time spans. The results of these searches confirm the results in Table 2

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92. See *Alien v. Immigrant Results 2*, *supra* note 85, at Token 2 for “illegal” as a collocate of “alien.”



and offer some additional insights about the usage of “alien” and “immigrant.”

### *1. Selected time periods*

I compared the collocates of “alien” and “immigrant” across each of five time spans: 1990–1994, 1995–1999, 2000–2004, 2005–2009, and 2010–2012. As in my prior query, I limited my results to adjectives within four words of the search terms in spoken, magazine, and newspaper text.<sup>93</sup> In my prior query, I limited results to only those collocates that appear at least twenty times with each node word.<sup>94</sup> Because a time-specific comparison necessarily reduces the number of results by eliminating large portions of the corpus corresponding to the non-selected time spans, I adjusted the frequency threshold to five.<sup>95</sup> Including all collocates that appear at least five times, rather than twenty times, with each node word, accounts for the already reduced number of potential results inherent in a time-specific query but still ensures the relevancy of the results.<sup>96</sup> The results of these searches<sup>97</sup> appear in Table 3 below.

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93. See Part IV.B.1 above for the reasons for such limitations.

94. *See id.*

95. *See id.*

96. *See id.*

97. The queries and results are available online on COCA's website. *Alien v. Immigrant Results 3*, 1990–1994, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=26697003> (last visited Nov. 18, 2013); *Alien v. Immigrant Results 4*, 1995–1999, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=26697065> (last visited Nov. 18, 2013) [hereinafter *Alien v. Immigrant Results 4*]; *Alien v. Immigrant Results 5*, 2000–2004, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=26697143> (last visited Nov. 18, 2013); *Alien v. Immigrant Results 6*, 2005–2009, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=26697214> (last visited Nov. 18, 2013); *Alien v. Immigrant Results 7*, 2010–2012, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=26697306> (last visited Nov. 18, 2013).

**Table 3.** Collocates (adjectives) of any form of *alien* and *immigrant* found in spoken, magazine, and newspaper sources, sorted by relevance, limited to those appearing at least five times for both node words, for each of five labeled time periods.

### 1990–1994

#### *Alien*

*Collocate*  
(collocation score)

- 1 ILLEGAL (1.2)
- 2 OTHER (.6)
- 3 UNDOCUMENTED (.5)
- 4 AMERICAN (.4)
- 5 LEGAL (.3)
- 6 NEW (.1)

#### *Immigrant*

*Collocate*  
(collocation score)

- 1 NEW (7.0)
- 2 LEGAL (3.8)
- 3 AMERICAN (2.4)
- 4 UNDOCUMENTED (2.0)
- 5 OTHER (1.6)
- 6 ILLEGAL (.8)

### 1995–1999

#### *Alien*

*Collocate*  
(collocation score)

- 1 CRIMINAL (8.8)
- 2 ILLEGAL (1.2)
- 3 UNDOCUMENTED (1.1)
- 4 PUBLIC (.9)
- 5 OTHER (.6)
- 6 AMERICAN (.5)
- 7 LEGAL (.2)
- 8 NEW (.2)

#### *Immigrant*

*Collocate*  
(collocation score)

- 1 NEW (5.5)
- 2 LEGAL (5.3)
- 3 AMERICAN (2.1)
- 4 OTHER (1.6)
- 5 PUBLIC (1.2)
- 6 UNDOCUMENTED (.9)
- 7 ILLEGAL (.8)
- 8 CRIMINAL (.1)

**2000–2004***Alien*

*Collocate*  
(collocation score)

- 1 CRIMINAL (2.6)
- 2 ONLY (2.0)
- 3 ILLEGAL (1.5)
- 4 LEGAL (.4)
- 5 OTHER (.4)
- 6 UNDOCUMENTED (.4)
- 7 NEW (.1)

*Immigrant*

*Collocate*  
(collocation score)

- 1 NEW (7.5)
- 2 UNDOCUMENTED (2.6)
- 3 OTHER (2.5)
- 4 LEGAL (2.2)
- 5 ILLEGAL (.7)
- 6 ONLY (.5)
- 7 CRIMINAL (.5)

**2005–2009***Alien*

*Collocate*  
(collocation score)

- 1 CRIMINAL (4.2)
- 2 HUMAN (3.7)
- 3 GREEN (2.6)
- 4 FEDERAL (1.6)
- 5 ILLEGAL (1.3)
- 6 AMERICAN (.6)
- 7 OTHER (.6)
- 8 MEXICAN (.3)
- 9 LEGAL (.2)
- 10 NEW (.2)
- 11 UNDOCUMENTED (.2)

*Immigrant*

*Collocate*  
(collocation score)

- 1 UNDOCUMENTED (5.4)
- 2 NEW (4.8)
- 3 LEGAL (4.2)
- 4 MEXICAN (3.6)
- 5 OTHER (1.8)
- 6 AMERICAN (1.6)
- 7 ILLEGAL (.8)
- 8 FEDERAL (.6)
- 9 GREEN (.4)
- 10 HUMAN (.3)
- 11 CRIMINAL (.2)

**2010–2012*****Alien****Collocate*  
(collocation score)

- 1 CRIMINAL (5.6)
- 2 ILLEGAL (.6)
- 3 UNDOCUMENTED (.5)

***Immigrant****Collocate*  
(collocation score)

- 1 UNDOCUMENTED (2.0)
- 2 ILLEGAL (1.7)
- 3 CRIMINAL (.2)

## 2. Increasing association of “alien” with criminality

Searching specific time spans, especially the five-year spans of Table 3, leads to a substantial reduction in the number of tokens for each collocate. It is therefore important not to overstate the significance of the results. Still, one can draw a few broad inferences.

First, it appears that the results in Table 2 and discussed in Part IV.B above are not significantly skewed by any single period of time.

For four of the five time periods represented in Table 3, “criminal” appears as the top collocate of “alien.” The strong association between “alien” and “criminal” represented in Table 2 thus holds true even when results are separated by time period.

The only obvious outlier in Table 3 is the collocation score for “criminal” as a collocate of “alien” for the years 1995 to 1999. For those years, “criminal” is 8.8 times more likely to appear with “alien” than it is with “immigrant.”<sup>98</sup> This is a significantly higher collocation score than for “criminal” as a collocate of “alien” in each of the other time spans. Though this collocation score would appear to potentially skew the overall results discussed in Table 2, closer examination alleviates much of this concern. The collocation score of 8.8 is based on only twenty-one instances of the word “criminal” appearing as a collocate of “alien” or “immigrant.”<sup>99</sup> This represents a little less than twenty percent of the 114 instances of “criminal” appearing as a collocate of “alien” or “immigrant” in Table 2 even though that time span represents more than twenty percent of COCA’s full time span. Thus, the strong association between “alien” and “criminal” in Table 2 cannot be attributed solely to that span of time.

An interesting and unexpected inference suggested by Table 3 is that there may be an increasingly stronger association between “alien” and notions of criminality over time. Table 3 illustrates this trajectory well. Though “criminal” does not appear as a collocate of “alien” for the years 1990–1994, it appears as the top collocate of “alien” for each of the four subsequent time spans. Moreover, the collocation score for “criminal” as a collocate of “alien” is

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98. The tokens in context offer some insight. Many of the tokens of “criminal” as a collocate of “alien” refer directly to the debate surrounding pending immigration legislation which was passed in 1996 (squarely within the 1995-1999 time span at issue). See *Alien v. Immigrant Results 4*, *supra* note 97, at Tokens 1-16 for “criminal” as a collocate of “alien.”

99. See *Alien v. Immigrant Results 4*, *supra* note 97.

incrementally stronger over each of those four time spans, with the exception of the outlying score in years 1995-1999 described above.

Third, and somewhat surprisingly, the term “illegal” may be becoming more strongly associated with “immigrant” than it is with “alien.” Tables 3 and 4 show decreasing comparative collocation scores for “illegal” as a collocates of “alien” and increasing comparative collocation scores for “illegal” as a collocates of “immigrant.”

#### V. BEYOND THE DICTIONARY: IMMIGRANT V. CITIZENS

All of this is not to say that the cultural meaning of “immigrant” is exclusively positive. My searches above show that “immigrant” has positive connotations, *when compared to alien*. To further explore the relative connotation of “immigrant,” I compared its collocates to those of “citizen.” Because “immigrant” and “citizen” do not have competing meanings that might bias results in the same way that some might argue “alien” has, I performed a broad search. I searched for adjectives<sup>100</sup> of “immigrant” and “citizen” within four words of each term. I did not limit the genre or input a minimum threshold for the collocates’ frequency. The top twenty-five results, sorted by *frequency*, appear in Table 4 below.<sup>101</sup> The top twenty-five results for that same search, sorted by *relevance*, appear in Table 5 below.<sup>102</sup>

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100. As discussed in Part IV above, limiting a search by part of speech avoids including conjunctions, articles, prepositions, etc., that frequently appear with virtually all words (“the,” “and,” “of”) and allows for a more direct comparison between the search terms. That is, it is more intuitive to compare adjectives with adjectives across the results.

101. The query and results are available online on COCA’s website. *Immigrant v. Citizen Results*, Sorted by Frequency, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=24920495> (last visited Sep. 20, 2013).

102. The query and results are available online on COCA’s website. *Immigrant v. Citizen Results*, Sorted by Relevance, CORPUS OF CONTEMP. AM. ENG. (1990–2012), <http://corpus.byu.edu/coca/?c=coca&q=24920515> (last visited Sep. 20, 2013) [hereinafter *Immigrant v. Citizen Results*, Sorted by Relevance].

**Table 4.** Collocates (adjectives) of *immigrant* and *citizen*, sorted by frequency.

<i>Immigrant</i>	<i>Citizen</i>
<i>Collocate</i> ( <i>collocation score</i> )	<i>Collocate</i> ( <i>collocation score</i> )
1 ILLEGAL (45.4)	1 AMERICAN (4.1)
2 NEW (3.2)	2 SENIOR (175.8)
3 MEXICAN (5.6)	3 AVERAGE (35.4)
4 OTHER (1.7)	4 PUBLIC (17.5)
5 AMERICAN (.2)	5 PRIVATE (77.6)
6 ASIAN (172.4)	6 GOOD (32.7)
7 IRISH (30.3)	7 ORDINARY (32.1)
8 KOREAN (26.2)	8 NATURALIZED (15.8)
9 RUSSIAN (6.5)	9 OTHER (.6)
10 LEGAL (4.2)	10 BRITISH (11.3)
11 CHINESE (3.1)	11 NEW (.3)
12 ITALIAN (26.9)	12 LAW-ABIDING (60.2)
13 GERMAN (5.7)	13 CONCERNED (6.9)
14 RECENT (21.0)	14 CORPORATE (25.8)
15 ETHNIC (17.1)	15 SOVIET (4.6)
16 JEWISH (16.0)	16 INDIVIDUAL (3.3)
17 POOR (18.7)	17 SECOND-CLASS (89.5)
18 LARGE (8.4)	18 RESPONSIBLE (10.8)
19 EUROPEAN (11.3)	19 CANADIAN (5.3)
20 YOUNG (5.0)	20 SOLID (78.7)
21 UNDOCUMENTED (19.1)	21 POLITICAL (1.9)
22 AFRICAN (18.5)	22 FREE (6.2)
23 HISPANIC (140.0)	23 FRENCH (1.9)
24 NATIVE (10.6)	24 GLOBAL (8.1)
25 SOCIAL (2.7)	25 LOCAL (1.2)

**Table 5.** Collocates (adjectives) of *immigrant* and *citizen*, sorted by relevance.

<i>Immigrant</i>	<i>Citizen</i>
<i>Collocate</i> ( <i>collocation score</i> )	<i>Collocate</i> ( <i>collocation score</i> )
1 ASIAN (172.4)	1 SENIOR (175.8)
2 HISPANIC (140.0)	2 SECOND-CLASS (89.5)
3 VIETNAMESE (70.0)	3 SOLID (78.7)
4 LOW-INCOME (51.9)	4 PRIVATE (77.6)
5 ANTI (49.3)	5 LAW-ABIDING (60.2)
6 ILLEGAL (45.4)	6 UPSTANDING (49.4)
7 IMMIGRANT (41.5)	7 AVERAGE (35.4)
8 NON-MINORITY (41.5)	8 LEGITIMATE (33.9)
9 DIVERSE (38.9)	9 GOOD (32.7)
10 ETHIOPIAN (38.9)	10 ADVISORY (32.4)
11 FIRST-GENERATION (36.3)	11 ORDINARY (32.1)
12 SECOND-GENERATION (36.3)	12 KUWAITI (30.9)
13 SCHOOLED (33.7)	13 ABIDING (27.8)
14 CARIBBEAN (31.1)	14 HONORARY (27.8)
15 IRISH (30.3)	15 LIBERAL (27.8)
16 WORKING-CLASS (29.8)	16 NATURAL-BORN (27.8)
17 CHEAP (28.5)	17 ENVIRONMENTAL (27.0)
18 ITALIAN (26.9)	18 CONSTITUTIONAL (26.2)
19 KOREAN (26.2)	19 RIGHT (26.2)
20 HAITIAN (23.3)	20 CORPORATE (25.8)
21 ENTIRE (23.3)	21 INFORMED (24.7)
22 FRESH (23.3)	22 HONEST (23.1)
23 HEBREW (23.3)	23 DECENT (21.6)
24 JAMAICAN (23.3)	24 SEASONED (21.6)
25 RECENT (21.0)	25 DUAL (20.1)



The data comparing “immigrant” to “citizen” reveals the distinction in connotation between these two words. Whether sorted by relevance or by frequency, “citizen” has many listed collocates that imply positive contribution and participation. Among those collocates are “solid,” “law-abiding,” “upstanding,” “good,” “honest,” and “decent.” The context of these collocates further highlights this positive association. A typical usage of “upstanding” with “citizen” appears in a line from a fiction article in a magazine: “He was a good Samaritan. A nice guy. An upstanding citizen.”<sup>103</sup> “Law-abiding” and “good” are used in a similar fashion with “citizen.” Text from a Houston news source includes, “All his life he had been a law-abiding citizen,”<sup>104</sup> and a piece of fiction writing in a 2006 book includes, “I’m trying to be a good citizen here.”<sup>105</sup> “Citizens,” these results suggest, are civic-minded, contributing members of society.

The list of collocates for “immigrant” is very different. A majority of the top collocates, both in frequency and relevance, refer to cultural or ethnic groups. These collocates typically arise as direct modifiers of a form of the word “immigrant,”—for example, “Mexican immigrants,” “Asian immigrants,” or “Italian immigrants.” These collocates do not necessarily raise positive or negative connotations, but they do suggest that in common usage, the word “immigrant” has a strong association with distinct groups outside the majority. Immigrants, in other words, are “others”; they are different. When these cultural and ethnic labels are removed from the list of collocates, the results are less neutral. Collocates include “low-income,” “illegal,” “new,” “poor,” “young,” “undocumented,” and “older.” These collocates vividly construct a stereotype that has roots reaching far beyond contemporary culture. Emma Lazarus captured this vision of immigrants in her 1883 poem, *The New Colossus*, which is engraved at the foot of the Statue of Liberty:

Give me your tired, your poor,  
Your huddled masses yearning to breathe free,

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103. See *Immigrant v. Citizen Results, Sorted by Relevance*, *supra* note 102, at Token 12 for “upstanding” as a collocate of “citizen.”

104. See *id.* at Token 21 for “law-abiding” as a collocate of “citizen.”

105. See *id.* at Token 65 for “good” as a collocate of “citizen.”

The wretched refuse of your teeming shore.  
Send these, the homeless, tempest-tos't, to me.<sup>106</sup>

## VI. ON MEMBERSHIP AND BELONGING

A corpus-based analysis confirms, with some objective clarity, what other scholars have proposed. Discussions of immigration law and policy in the United States are heavily influenced by the connotations associated with the relevant terminology.<sup>107</sup> More importantly, the words we use to describe noncitizens influence the way we treat those individuals:

The metaphors floating in our minds determine our linguistic choices, which in turn affect social discourse and ultimately social action. Thus, how we think metaphorically affects how we talk about problems and the solutions we formulate in response to those problems. This becomes a self-fulfilling prophecy: the more we repeat, circulate, and repackage certain metaphors, the more our conceptual domains become tied to a limited set of associations.<sup>108</sup>

In this Part, I briefly describe the hierarchy of membership that underlies the cultural meanings of “alien,” “immigrant,” and “citizen,” but that is absent from their dictionary meanings. I then explore the effects that this implicit hierarchy has on contemporary immigration-related rhetoric and policy, with specific examples from law and popular culture.

### A. *The Hierarchy of Membership*

When we speak of “aliens,” “immigrants,” and “citizens,” we implicitly portray an image that a dictionary does not adequately

106. Emma Lazarus, *The New Colossus* (1883) (alteration in original).

107. See, e.g., Cunningham-Parmeter, *supra* note 3, at 1547–48; OTTO SANTA ANA, BROWN TIDE RISING: METAPHORS OF LATINOS IN CONTEMPORARY AMERICAN PUBLIC DISCOURSE 26 (2002) (“Metaphor is more than poetic color and superficial ornamentation. It shapes everyday discourse, and by this means it shapes how people discern and enact the everyday.”); Johnson, *supra* note 2, at 268 (“[M]y hope is to illustrate how the term alien masks the privilege of citizenship and helps to justify the legal status quo. . . . Alien terminology helps rationalize the harsh treatment of persons from other countries.”).

108. Cunningham-Parmeter, *supra* note 3 at 1548.

capture. The relative meanings of these terms suggest a hierarchical understanding of membership and status in American English, where citizens rise to the top and aliens fall to the bottom of the status hierarchy. The results from my COCA queries paint a clear narrative: aliens are non-human invaders or, at best, criminals. Immigrants are persons, but they are still outside the majority. They are ethnically different, poor, new, and otherwise not full members of the larger community. Citizens wear the crown in the membership hierarchy: they are “upstanding” and “law-abiding” members of their communities.

Notably, there is nothing about the definition of “alien”—when used to refer to a non-citizen—that would necessarily suggest the narrative that aliens are criminals. Nor is there anything about the definitions of “citizen” and “immigrant” that necessarily suggests that citizens are virtuous and upstanding, or that immigrants are poor, ethnic minorities. In fact, as discussed above in Part III, the dictionary definitions of “alien” and “immigrant,” on the one hand, and “immigrant” and “citizen,” on the other, are not mutually exclusive of each other. In many instances, according to their dictionary meanings, one could select between “alien” and “immigrant” or between “immigrant” and “citizen” to describe an individual. Word choice is crucial.<sup>109</sup> The label applied can transform the way the listener or reader views the person described.

### *B. The Language of Exclusion*

The hierarchical narrative of membership described above has taken root in public rhetoric. The narrative appears in newspaper articles, online discussion forums, voter pamphlets, campaign speeches, and everyday discussions. The narrative is so entrenched in our immigration-related rhetoric, that it is not even necessary to use the terms “alien,” “immigrant,” and “citizen” to convey that narrative.<sup>110</sup> Rather, the narrative has taken on a life of its own,

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109. Sometimes, the connotations of one word are inescapable, despite the use of another word. As Chandra Talpade Mohanty put it, “One can be either a resident or illegal immigrant, but one is always an alien.” Chandra Talpade Mohanty, *Crafting Feminist Genealogies: On the Geography and Politics of Home, Nation, and Community*, in TALKING VISIONS: MULTICULTURAL FEMINISM IN A TRANSNATIONAL AGE 485, 492 (Ella Shohat ed., 2001).

110. In that sense, the imagery associated with “alien,” “immigrant,” and “citizen” is encompassed in linguistic metaphors. Otto Santa Ana quotes Cicero, who explained that a metaphor occurs “when a word applying to one thing is transferred to another, because the

unanchored from any specific terminology. In many instances that narrative appears explicitly, rather than implicitly. Ultimately, the narrative reinforces a stratified notion of belonging and membership in which those who belong—citizens—are threatened by those who do not—aliens.

### 1. *Aliens in our midst*

Professor Cunningham-Parmeter has noted: “‘Alien’ is the most dominant metaphor in all of immigration law. In fact, lawyers and judges refer to ‘aliens’ so frequently that few would identify the word as a metaphor. . . . Despite this benign appearance, however, several metaphoric references lie just beneath the surface.”<sup>111</sup>

Kevin Johnson adds that “[d]espite the blandness of the definition, the word alien immediately brings forth rich imagery. One thinks of space invaders seen on television and in movies.”<sup>112</sup> Gerald Neuman notes that the term “aliens” “calls attention to their ‘otherness,’ and even associates them with nonhuman invaders from outer space.”<sup>113</sup>

*a. Law and politics.* The law is not bound to the dictionary or to common usage. Lawmakers may prescribe certain usage within the law. Indeed, “[t]he legislature may act as its own lexicographer.”<sup>114</sup> The drafters of a statute define statutory terms without reference to common usage.<sup>115</sup> Nonetheless, the law cannot erase common usage. In fact, the language of statutes and opinions often furthers the metaphor that aliens are invaders, criminals, and enemies.

similarity seems to justify the transference.” SANTA ANA, *supra* note 107 (citation omitted). Often, a metaphor uses concrete language from an unrelated, more abstract topic. *Id.* This helps listeners “get a handle on” the concept being described. *Id.*

111. Cunningham-Parmeter, *supra* note 3, at 1568–69.

112. Johnson, *supra* note 2, at 272 (footnote omitted). For an interesting discussion of how the blockbuster film *Men in Black* capitalized on this imagery by depicting an extra-terrestrial dressed as a Mexican immigrant being smuggled across the U.S.-Mexican border, see KATARZYNA MARCINIAK, *ALIENHOOD: CITIZENSHIP, EXILE, AND THE LOGIC OF DIFFERENCE* 3–5 (2006).

113. Gerald L. Neuman, *Aliens as Outlaws: Government Services, Proposition 187, and the Structure of Equal Protection Doctrine*, 42 UCLA L. REV. 1425, 1428 (1994); see also MARCINIAK, *supra* note 112, at xi (describing her reaction to an INS officer’s use of the word “alien”: “At first this sounded absurd, as if the officer had assumed Tommy Lee Jones’s role as the suave INS Special agent K in the film *Men in Black*.”).

114. *State v. Fischer*, 785 N.W.2d 697, 702 (Iowa 2010).

115. TIERSMA, *supra* note 42, at 116.

Court opinions are replete with language suggesting that aliens are invaders, criminals, and enemies. Supreme Court opinions are no exception. The narrative of alien as invaders and enemies is as old as immigration law itself. In *The Chinese Exclusion Case*, the Supreme Court affirmed the federal power to regulate immigration. Justice Field described immigration as a potential type of foreign aggression: “It matters not in what form such aggression and encroachment come, whether from the foreign nation acting in its national character or from vast hordes of its people crowding in upon us.”<sup>116</sup>

During Senate debates on the adoption of the Fourteenth Amendment, one Senator expressed concern that adopting territorial birthright citizenship might incentivize Chinese immigrants to “pour in their millions upon our Pacific coast in a very short time.”<sup>117</sup> He added, “[I]s it proposed that the people of California are to remain quiescent while they are overrun by a flood of immigration of the Mongol race?”<sup>118</sup>

One hundred years later, the metaphor continues. In 1975, the Supreme Court referred to unauthorized migration as a “silent invasion of illegal aliens from Mexico.”<sup>119</sup> Justice O’Connor referred to the “northbound tide of illegal entrants into the United States.”<sup>120</sup> Other Justices have referenced a “flood of illegal aliens—aliens over whose entry or continued presence [the government] has no control,”<sup>121</sup> and the “significant influx . . . of illegal aliens from neighboring Mexico.”<sup>122</sup> “Illegal alien” has been the Supreme Court Justices’ term of choice to refer to unauthorized immigrants even though that term does not appear in the INA.<sup>123</sup> Even statutory language furthers the narrative that aliens are invaders. For example, federal statute authorizes the Attorney General to empower state officers to enforce immigration laws in the event of “an actual or imminent mass influx of aliens.”<sup>124</sup>

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116. *Chae Chan Ping v. United States*, 130 U.S. 581, 606 (1889).

117. CONG. GLOBE, 39th Cong., 1st Sess. 2890–91 (1866) (remarks of Sen. Cowan).

118. *Id.*

119. *United States v. Ortiz*, 422 U.S. 891, 904 (1975).

120. *City of Indianapolis v. Edmond*, 531 U.S. 32, 38 (2000).

121. *Plyler v. Doe*, 457 U.S. 202, 249 (1982) (Burger, J., dissenting).

122. *De Canas v. Bica*, 424 U.S. 351, 357 (1976).

123. Cunningham-Parmeter, *supra* note 3, at 1573–74 (describing empirical data that suggests “illegal alien” is the most common term used to refer to unauthorized immigrants).

124. *See* 8 U.S.C. § 1103(a)(10).

The image of the invading alien has become concrete enough to form the basis of suits under the Invasion Clause of the Constitution.<sup>125</sup> Several states have argued in court that the United States has violated its obligation to protect states from invasion by failing to prevent unauthorized immigration.<sup>126</sup> These arguments have not been well received. Not only are there “no manageable standards to ascertain whether or when an influx of illegal immigrants should be said to constitute an invasion,”<sup>127</sup> but the Invasion Clause affords protection from armed hostility from another political entity, not from immigration.<sup>128</sup>

In Congress, the metaphor of the invading, criminal, enemy alien persists. The Senate committee report on the Border Security, Economic Opportunity, and Immigration Modernization Act is illustrative. A form of “alien” appears 264 times, most often as part of phrases that emphasize criminality, including “alien terrorists”<sup>129</sup> and “criminal alien.”<sup>130</sup> Legislators use similar language in media appearances and on political websites. Representative Paul Broun of Georgia has talked about a “flood” of immigration and opined, “These illegal aliens are criminals and we need to treat them as such.”<sup>131</sup> Also typical are implicit suggestions that migrants are invading forces with calls to “secure our borders.”<sup>132</sup> One legislator

125. U.S. CONST. art. IV, § 4 (“The United States . . . shall protect each of [the states] against Invasion.”).

126. See *California v. United States*, 104 F.3d 1086, 1090 (9th Cir. 1997); *Padavan v. United States*, 82 F.3d 23, 28 (2d Cir. 1996); *Chiles v. United States*, 69 F.3d 1094, 1097 (11th Cir. 1995), *cert. denied*, 517 U.S. 1188 (1996).

127. *California*, 104 F.3d at 1090.

128. See *id.* (“California ignores the conclusion set forth by our Founders. In *The Federalist* No. 43, James Madison referred to the Invasion Clause as affording protection in situations wherein a state is exposed to armed hostility from another political entity.”).

129. PATRICK LEAHY, BORDER SECURITY, ECONOMIC OPPORTUNITY, AND IMMIGRATION MODERNIZATION ACT, S. Rep. No. 113–40, at 15, available at <http://www.gpo.gov/fdsys/pkg/CRPT-113srpt40/pdf/CRPT-113srpt40.pdf>.

130. *Id.*

131. Elise Foley, *Paul Broun: Republicans “Getting Soft” On Immigration*, HUFFINGTON POST (Mar. 22, 2013, 12:07 PM), [http://www.huffingtonpost.com/2013/03/22/paul-broun-republicans-immigration\\_n\\_2932324.html](http://www.huffingtonpost.com/2013/03/22/paul-broun-republicans-immigration_n_2932324.html).

132. Representative Vern Buchanan described Arizona’s efforts to regulate immigration as a response to “the federal government’s failure to secure our borders.” See Timothy R. Wolfrum, *Arizona Immigration Law Result of Fear, Hispanics in Manatee Say*, BRADENTON HERALD (Bradenton, FL), (May 1, 2010), <http://www.bradenton.com/2010/05/01/2250035/arizona-immigration-law-result.html>.

proposed that increased border security would keep “terrorists, drug lords and illegal gang members out of the United States.”<sup>133</sup>

*b. Popular culture.* In popular culture, the narrative that non-citizens are non-human, extraterrestrials, criminals, or otherwise enemies is an intended and explicit part of the message. For instance, a bumper sticker previously for sale at a Colorado-based convenience store explicitly suggested that unauthorized immigrants are non-human and expendable.<sup>134</sup> The sticker was designed to look like a hunting permit.<sup>135</sup> The text read, “Illegal Immigrant Hunting Permit.”<sup>136</sup> Scores of immigration-reform-related bumper stickers and pins use images of extraterrestrials as illustrations or otherwise suggest that immigrants are not human.<sup>137</sup> An “illegal alien” Halloween costume reinforces the non-human and criminal portrayal of unauthorized migrants.<sup>138</sup> It includes a prison-style orange jump suit and an extraterrestrial face mask.<sup>139</sup> A bumper sticker pits the term “alien” against “immigrant”: “Illegal aliens are not immigrants. They are criminals.”<sup>140</sup>

*c. Excluding aliens.* Despite these subtle and not-so-subtle associations with extraterrestrial invaders, criminals, and enemies, the word “alien” is entrenched in the legal vocabulary surrounding immigration. That aspect, in fact, is what makes the term “alien” of

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133. *See id.* (quoting U.S. Rep. Vern Buchanan).

134. *See Outrage Over “Illegal Immigrant Hunting Permit” Bumper Sticker In Colorado*, HUFFINGTON POST (Feb. 7, 2013, 5:14 PM), [http://www.huffingtonpost.com/2013/02/07/outrage-over-illegal-immigrant-bumper-sticker\\_n\\_2640363.html](http://www.huffingtonpost.com/2013/02/07/outrage-over-illegal-immigrant-bumper-sticker_n_2640363.html).

135. *See id.*

136. *See id.*

137. A search for “illegal alien stickers” on Zazzle.com, an online retailer of customizable shirts, posters, mugs, phone covers, etc., produces a myriad of products that capitalize on and reinforce this imagery. Examples range from a t-shirt that reads “Go back to your spaceships you illegal aliens,” to a bumper sticker that says “Illegal Aliens Abducted My Name!,” to a poster titled “Illegal Alien Crossing Highway Sign,” depicting a family running. *See ZAZZLE*, <http://www.zazzle.com/illegal+aliens+gifts> (last visited Sep. 20, 2013).

138. *See* Illegal Alien Costume, by Forum Novelties Inc., for sale via Amazon.com, [http://www.amazon.com/Forum-Novelties-Inc-Costume-Illegal/dp/B0087UKRX0/ref=sr\\_1\\_7?ie=UTF8&qid=1378311797&csr=8-7&keywords=illegal+alien](http://www.amazon.com/Forum-Novelties-Inc-Costume-Illegal/dp/B0087UKRX0/ref=sr_1_7?ie=UTF8&qid=1378311797&csr=8-7&keywords=illegal+alien) (last visited Sep 20, 2013).

139. *See id.*

140. *See* Illegal Aliens Arent Immigrants Theyre Criminals Bumper Sticker, by Sticker Beast, for sale via Amazon.com, [http://www.amazon.com/Illegal-Aliens-Immigrants-Criminals-Sticker/dp/B00EKQMU3A/ref=sr\\_1\\_4?ie=UTF8&qid=1378312255&csr=8-4&keywords=illegal+alien+stickers](http://www.amazon.com/Illegal-Aliens-Immigrants-Criminals-Sticker/dp/B00EKQMU3A/ref=sr_1_4?ie=UTF8&qid=1378312255&csr=8-4&keywords=illegal+alien+stickers) (last visited Sep. 20, 2013).

particular concern. Because “alien,” as defined in the INA, refers, rather clinically, to non-citizens, it acquires an air of neutrality.<sup>141</sup> But its common usage betrays its more derogatory meaning. In fact, the term “alien” serves to de-humanize and objectify non-citizens.<sup>142</sup> The term prompts us to picture someone—or something—that is other-worldly, criminal, and invasive. Such imagery threatens the humanity with which we treat noncitizens. “By distinguishing between aliens and persons, society is able to reconcile the disparate legal and social treatment afforded the two groups.”<sup>143</sup> It is much more palatable to deny rights to an “alien” than it is to deny rights to a “person.” Indeed, courts have often described the benefits conferred on noncitizens as “privileges,” rather than rights.<sup>144</sup> And noncitizens sometimes find themselves wholly excluded from many rights and benefits, both public and private.<sup>145</sup> In short, an “alien” does not belong. She is not a member, and she has few rights. As one judge has observed when considering the argument that the Constitution is less applicable to aliens than it is to citizens, “No doubt for some purposes this characterization is the harsh truth.

141. Katarzyna Marciniak describes this phenomenon in the opening pages of her book: One morning a female INS officer in Arizona initiated our phone contact in this way: “I’ve got an alien here that I need to interview.” At first this sounded absurd, as if the officer had assumed Tommy Lee Jones’s role as the suave INS Special Agent K in the film *Men in Black*. I knew, of course, that the officer was not referring to some slimy, bug-eyed monster but to an actual person. Her voice was kind and warm, reflecting the rhetoric of alienhood that I had heard to so many times: it sounded deceptively innocent, its sweetness concealing the xenophobic undertones that frequently color anti-immigrant discourses in this country. MARCINIAK, *supra* note 112, at xi.

142. Johnson, *supra* note 2, at 272.

143. *Id.* at 273.

144. Marisa Tostado, *Alienation: Congressional Authorization of State Discrimination against Immigrants*, 31 LOY. L.A. L. REV. 1033, 1040 (1998). Professor Tostado explains that “[a]nother theory offered by the Supreme Court” for the disparate treatment of aliens and citizens is “that because an alien is merely a ‘guest’ asserting a ‘privilege,’ rather than a ‘member’ asserting a ‘right,’ allowing aliens to assert constitutional rights would give them an unfair advantage over United States citizens.” *Id.*; see also Stephen H. Legomsky, *Ten More Years of Plenary Power: Immigration, Congress, and the Courts*, 22 HASTINGS CONST. L.Q. 925, 927–28 (1995).

145. For a discussion of the effect of immigration status on constitutional protections, see Karen Nelson Moore, Madison Lecture, *Aliens and the Constitution*, 88 N.Y.U. L. REV. 801 (2013). In the case of undocumented immigrants, access to public and private services can be severely limited. See Hiroshi Motomura, *Immigration Outside the Law*, 108 COLUM. L. REV. 2037, 2079 (2008) (“[R]estrictions on eligibility for driver licenses and other identity documents limit lawful access not only to the streets and highways, but also to a full range of public and private activities that require identification documents.”).



Since the abolition of slavery aliens are the only adults subject to treatment as second-class people in the United States.”<sup>146</sup>

## 2. *The vulnerable immigrant*

The term “immigrant” does not carry the same dehumanizing connotations that “alien” carries. As discussed in Part IV above, “immigrant,” when compared to “alien,” prompts images of communities, families, and people. When the term “immigrant” is compared to “citizen,” however, it becomes clear that the term immigrant also can elicit images of vulnerable outsiders. The term “immigrant” paints a picture of someone who is ethnically and culturally different, economically disadvantaged, inexperienced, and even “illegal.” This image appears explicitly and as a metaphor throughout modern discussions of immigration.

*a. Law and politics.* Justice Brennan’s opinion in *Plyler v. Doe* serves as a particularly good example of how this metaphor permeates legal opinions. In *Plyler*, the Court considered the constitutionality of a Texas statute that allowed local public schools to deny enrollment to undocumented immigrant children.<sup>147</sup> In an opinion celebrated by many immigration scholars, the Court ultimately struck down the statute as violative of the Equal Protection clause.<sup>148</sup> While the holding was certainly a watershed, the language used to describe noncitizens in the opinion was consistent with the prevailing narrative: immigrants are vulnerable outsiders. As Professor Cunningham-Parmeter has observed, “*Plyler* is littered with metaphors of paternalism that cast immigrants as nameless actors who depend on the Supreme Court for protection.”<sup>149</sup> Justice Brennan describes unauthorized immigrants as “defenseless against any abuse, exploitation, or callous neglect.”<sup>150</sup> He refers to a potential “caste of undocumented resident aliens, encouraged by some to remain here as a source of cheap labor”<sup>151</sup> and a future

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146. See *Price v. INS*, 962 F.2d 836, 844 (9th Cir. 1992) (Noonan, J., dissenting), *cert. denied*, 510 U.S. 1040 (1994).

147. *Plyler v. Doe*, 457 U.S. 202 (1982).

148. *Id.*

149. Cunningham-Parmeter, *supra* note 3, at 1562.

150. *Plyler*, 457 U.S. at 219 n.18.

151. *Id.* at 213–19.

“subclass of illiterates within our boundaries, surely adding to the problems and costs of unemployment, welfare, and crime.”<sup>152</sup>

The opinion relied, at least in part, on the distinction between the immigrant children, who had not volitionally crossed the border, and their parents, who had. Placed in the context of the narrative that aliens are criminals and immigrants are vulnerable, the children were depicted as “immigrants,” and their parents as “aliens.” In fact, Justice Brennan avoided the term “illegal alien” when specifically referring to children. Instead, he frequently referred to them as “children” or “undocumented children,”<sup>153</sup> despite referring to unauthorized immigrants, generally, as “aliens.”<sup>154</sup>

The image of the vulnerable, disadvantaged immigrant saturates news coverage and political debate on the issue of immigration. An article on The Heritage Foundation’s website bemoans the “current influx of poorly educated immigrants” and warns that “immigration policy in the U.S. [is] increasing rather than decreasing poverty.”<sup>155</sup> This, in turn, increases “governmental welfare, social service, and education costs.”<sup>156</sup> A *New York Times* article describes the life of a Pakistani immigrant: “Speaking only limited English and with few friends, he had little to do and mainly stayed at home, a small rented room in an illegal basement apartment in Coney Island.”<sup>157</sup> The article goes on to describe a study that catalogues the difficulties that older immigrants face: “Besides being one of the fastest-growing demographic groups, older immigrants are also among the most

152. *Id.* at 230.

153. *See, e.g., id.* (“[T]he record is clear that many of the undocumented children disabled by this classification will remain in this country indefinitely.”); *id.* at 219–20 (“These arguments do not apply with the same force to classifications imposing disabilities on the minor children of such illegal entrants.”); *id.* at 207 (“[B]arring undocumented children from the public schools would save money, but it would ‘not necessarily’ improve ‘the quality of education.’”).

154. *See, e.g., id.* at 218 (“[T]he employment of undocumented aliens.”); *id.* at 225 (“[T]he states do have some authority to act with respect to illegal aliens.”); *id.* at 229 (“[P]rohibiting the employment of illegal aliens.”).

155. Robert Rector, *Importing Poverty: Immigration and Poverty in the United States: A Book of Charts*, HERITAGE FOUND. (Oct. 25, 2006), <http://www.heritage.org/research/reports/2006/10/importing-poverty-immigration-and-poverty-in-the-united-states-a-book-of-charts>.

156. *See id.*

157. Kirk Semple, *Immigrant Struggles Compounded by Old Age*, N.Y. TIMES, July 25, 2013, available at <http://www.nytimes.com/2013/07/26/nyregion/poverty-looms-large-for-citys-aging-immigrant-population-study-says.html>.

vulnerable. ‘Many in this group are not only poised to strain the social safety net but fall through it entirely,’ the study said.”<sup>158</sup>

*b. Popular culture.* One of the most enduring portrayals of immigrants in movies and on television is as a poor and overworked housekeeper or maid.<sup>159</sup> The movie “Spanglish,” for example, depicts a poor immigrant mother who works two jobs to provide for her daughter.<sup>160</sup> A movie review in the *Los Angeles Times* describes one screenwriter’s efforts to avoid making “another heart-rending saga about poor, desperate Mexicans hellbent on crossing the border.”<sup>161</sup>

*c. Excluding immigrants.* Of course, it is true that many immigrants are indeed in very vulnerable positions. Immigrants may face significant language, cultural, and educational barriers to the achievement of their goals.<sup>162</sup> But immigrants also bring a great deal

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158. *Id.*

159. For an interesting discussion of the portrayal of Latina maids in U.S. Media, see Yajaira M. Padilla, *Domesticating Rosario: Conflicting Representations of the Latina Maid in U.S. Media*, 13 ARIZ. J. HISP. CULTURAL STUD. 41 (2009); see also Mireya Navarro, *Trying to Get Beyond the Role of the Maid; Hispanic Actors Are Seen as Underrepresented, With the Exception of One Part*, N.Y. TIMES, May 16, 2001, available at <http://www.nytimes.com/2002/05/16/movies/trying-get-beyond-role-maid-hispanic-actors-are-seen-underrepresented-with.html?pagewanted=all&src=pm>.

160. SPANGLISH (Columbia Pictures 2004).

161. Reed Johnson, *Cinema’s Shifting Perspective on Immigration*, L.A. TIMES, March 23, 2013, available at <http://articles.latimes.com/2013/mar/23/entertainment/la-ca-mn-immigration-films-20130324>.

162. According to the Pew Research Hispanic Center, the poverty rate of immigrants is higher than that of the native born. PEW RESEARCH CTR., U.S. IMMIGRANT POPULATION TRENDS (2013), available at [http://www.pewhispanic.org/2013/02/15/u-s-immigration-trends/ph\\_13-01-23\\_ss\\_immigration\\_16\\_poverty/](http://www.pewhispanic.org/2013/02/15/u-s-immigration-trends/ph_13-01-23_ss_immigration_16_poverty/). Over a third of immigrants have no health insurance, as compared to only 13% of the native born. PEW RESEARCH CTR., U.S. IMMIGRANT POPULATION TRENDS (2013), available at [http://www.pewhispanic.org/2013/02/15/u-s-immigration-trends/ph\\_13-01-23\\_ss\\_immigration\\_17\\_insurance/](http://www.pewhispanic.org/2013/02/15/u-s-immigration-trends/ph_13-01-23_ss_immigration_17_insurance/). Unauthorized immigrants are especially vulnerable. Fear of deportation causes unauthorized immigrants to underreport crime and accept harsh and dangerous working conditions. See NIK THEODORE, DEP’T OF URBAN PLANNING & POLICY, UNIV. OF ILL. AT CHIC., *INSECURE COMMUNITIES: LATINO PERCEPTIONS OF POLICE INVOLVEMENT IN IMMIGRATION ENFORCEMENT*, available at [http://www.uic.edu/cuppa/gci/documents/1213/Insecure\\_Communities\\_Report\\_FINAL.pdf](http://www.uic.edu/cuppa/gci/documents/1213/Insecure_Communities_Report_FINAL.pdf); Robert C. Davis et al., *Access to Justice for Immigrants Who Are Victimized: The Perspectives of Police and Prosecutors*, 12 CRIM. JUST. POL’Y REV. 183, 187 (2001) (reporting that a large majority of district attorneys and chiefs of police from the fifty largest cities believed that recent immigrants underreport crimes); Núñez, *supra* note 39, at 860–63 (describing the incentive structure that discourages undocumented workers from reporting employer violations of employment law); Brian Bennett, *Latinos Now Less Likely to Report Crimes to Police, Poll Says*, L.A. TIMES, May 7, 2013, available at <http://articles.latimes.com/2013/may/07/news/la-pn-latinos-less-likely-to-report-crimes->

of innovation, hard work, and ambition with them.<sup>163</sup> Indeed, a growing number of commentators have called for a shift in focus in immigration regulations to allow for a freer flow of innovative and entrepreneurial immigrants.<sup>164</sup> Indeed, the term “immigrant” does not capture the upside of immigration and can prompt imagery that over-emphasizes vulnerability.

The emphasis on vulnerability and cultural differences can impede full acceptance of immigrants as members of the broader community. The imagery associated with the term “immigrant” contributes to the sentiment that immigrants drain resources and do

20130507 (“About 44% of Latinos surveyed said they were less likely now to contact police if they were victims of a crime because they fear officers will inquire about their immigration status or the status of people they know.”).

163. See, e.g., Robert W. Fairlie, U.S. Small Bus. Ass’n, *Immigrant Entrepreneurs and Small Business Owners, and their Access to Financial Capital*, May 2012, available at <http://www.sba.gov/sites/default/files/rs396tot.pdf> (documenting the disproportionately high rate of entrepreneurship among immigrant). Counter to the popular conception of immigrants, immigrants are more likely than non-immigrants to hire employees for their businesses, own businesses that export goods and services, and start businesses with higher levels of capital. See *id.* at ii-iii; see also Kirk Semple, *Moving to U.S. and Amassing a Fortune, No English Needed*, N.Y. TIMES, November 8, 2011, available at <http://www.nytimes.com/2011/11/09/nyregion/immigrant-entrepreneurs-succeed-without-english.html?pagewanted=all> (highlighting immigrants who own successful businesses, including the owner of a \$19 million food manufacturing business and the owner of a \$30-million-a-year cellphone accessories company).

164. The Obama administration launched a website dedicated to helping immigrant entrepreneurs “navigate opportunities to start and grow a business in the United States.” See Felicia Escobar & Doug Rand, *A New Front Door for Immigrant Entrepreneurs*, WHITE HOUSE BLOG, Nov. 29, 2012, <http://www.whitehouse.gov/blog/2012/11/29/new-front-door-immigrant-entrepreneurs>. The administration has pledged support of a “startup visa” designed specifically for immigrant entrepreneurs. See *id.*; see also Peter H. Schuck & John E. Tyler, *Making the Case for Changing U.S. Policy Regarding Highly Skilled Immigrants*, 38 FORDHAM URB. L.J. 327, 330 (2010) (arguing that U.S. immigration law should welcome more highly skilled immigrants, who are “innovat[ive] and engage in entrepreneurial activity . . . at levels disproportionate to their presence in the population and relative to native-born Americans.”). For a discussion of the implications of the increased desire for immigrants with “super talent,” see Ayelet Shachar & Ran Hirschl, *Recruiting “Super Talent”: The New World of Selective Migration Regimes*, 20 IND. J. GLOBAL LEGAL STUD. 71 (2013).

not contribute or participate.<sup>165</sup> This, in turn, may help feed the efforts to exclude many classes of immigrants from certain benefits.<sup>166</sup>

### *C. Citizens: threatened heroes*

The term “citizen” conjures images of noble, contributing, participatory individuals who share a common goal. This imagery idealizes the citizen. Unfortunately, because an “alien” is a “noncitizen,” the image of the noble citizen can cast a shadow of suspicion and distrust over aliens. Consider the sentiments provoked in much of today’s immigration-related discourse, which pits citizens against aliens. A website for House of Representatives member Trey Gowdy, for example, juxtaposes immigrants and aliens: “Our history of selective enforcement of immigration laws has made our nation vulnerable, threatening the wellbeing of every citizen.”<sup>167</sup> Senator Orrin Hatch has communicated the same narrative using alternate labels: “[T]he states must deal on a daily basis with the results of our porous border and the breakdown of our immigration enforcement system. The result is a massive burden on taxpayers.”<sup>168</sup> Representative Andy Harris describes unauthorized migration as “an insult to Americans.”<sup>169</sup> He adds, “Citizens across the United States are fed up with widespread illegal immigration.”<sup>170</sup> A New Yorker blog post specifically discusses this narrative: “The spectre of masses

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165. See Leticia M. Saucedo, *Mexicans, Immigrants, Cultural Narratives, and National Origin*, 44 ARIZ. ST. L.J. 305, 339 (2012) (“Today’s public debate around immigration centers on the extent to which immigrants are taking American jobs, or are taking jobs Americans do not want.”). Ediberto Roman catalogues immigration-related rhetoric based on the idea that immigrants are a drain on resources and discusses several studies undermining these assumptions. Ediberto Roman, *The Alien Invasion*, 45 HOU. L. REV. 841 (2008).

166. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996, for example, substantially limited the welfare benefits available to immigrants. Authorized immigrants are generally not eligible for welfare benefits until they have been in the United States for five years or have naturalized. See 8 U.S.C. § 1612; *Developments—Jobs and Borders*, 118 HARV. L. REV. 2171, 2248 (2005).

167. Press Release, Trey Gowdy, Gowdy Immigration Bill Passes House Judiciary Committee (June 18, 2013), available at <http://gowdy.house.gov/news/documentsingle.aspx?DocumentID=339551>.

168. *Immigration*, SENATOR ORRIN HATCH WEBSITE, <http://www.hatch.senate.gov/public/index.cfm/immigration—issue>.

169. *Issues*, ANDY HARRIS FOR CONGRESS, <http://www.andyharris.com/issues/>.

170. *Id.*

of immigrants taking American jobs and driving down wages is a powerful one.”<sup>171</sup>

Public discourse suggests that citizens are heroes facing a great tragedy. This narrative advances the notion that citizens must protect their interest against the fast influx of aliens. This, the narrative goes, is a zero-sum game in which noncitizens gain only at the expense of citizens, and vice-versa. The implications are obvious. Such imagery has the potential to marginalize immigrants of all types and hinder immigrants’ sense of belonging and membership. In addition, such language reinforces an “us-versus-them” mentality among citizens that can, in turn, result in legislation that further stratifies membership.

## VII. CONCLUSION

Many scholars and commentators have advocated for a view of immigration and citizenship that extends a welcoming hand to newcomers with as few distinctions between classes of people as possible. These views of immigration and citizenship embody an inclusive and idealistic approach to membership.<sup>172</sup> The words we use in the realm of immigration and citizenship law and rhetoric are a formidable challenge to these views of membership. The connotations associated with “citizen,” “immigrant,” and “alien,” reinforce a narrative in which citizens are tragic heroes being

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171. James Surowiecki, *Immigration Reform and the American Worker*, NEW YORKER, February 22, 2013, available at <http://www.newyorker.com/online/blogs/newsdesk/2013/02/immigration-reform-and-the-american-worker.html>. The article goes on to discuss a survey released by the John Heldrich Center for Workforce Development in which four in ten of those surveyed attributed high unemployment to “illegal immigrants taking jobs away from Americans.” *Id.* Evidence does not support this idea. See *id.*; see also GIOVANNI PERI, FED. RESERVE BANK OF SAN FRANCISCO, THE EFFECT OF IMMIGRANTS ON U.S. EMPLOYMENT AND PRODUCTIVITY, available at <http://www.frbsf.org/economic-research/publications/economic-letter/2010/august/effect-immigrants-us-employment-productivity/>.

172. Hiroshi Motomura proposes a view of immigration as one of transition toward citizenship. See HIROSHI MOTOMURA, AMERICANS IN WAITING (Oxford Univ. Press 2006). Victor Romero advocates a view of the Constitution “that provides as much parity as possible between citizen and noncitizen, regardless of formal immigration status.” See VICTOR ROMERO, ALIENATED 4 (2005). Alexander Aleinikoff has criticized the argument that there are “necessary differences” between citizens and aliens. See THOMAS ALEXANDER ALEINIKOFF, SEMBLANCES OF SOVEREIGNTY: THE CONSTITUTION, THE STATE, AND AMERICAN CITIZENSHIP 177 (2002).

displaced by invading aliens and in which immigrants are characterized by their vulnerability. However, a recognition of that challenge and a conscious acknowledgement of the importance that words play in our understanding of membership are an important first step toward arriving at a shared understanding of membership and belonging.