

A Sociology of Discordance: Negotiating Schemas of Deservingness and Codified Law in U.S. Asylum Status Determinations¹

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Asylum is one of the most significant global issues of our time. Asylum status determinations are thus a topic of great political and practical importance. This article analyzes asylum status determinations to better understand and theorize organizational legal decision-making processes. It draws on 30 interviews with U.S. asylum officers as well as case law and policy documents to develop a conceptual framework for understanding what happens, in particular, when officers' understandings of deservingness for asylum do not match codified definitions of eligibility for asylum. The article identifies the processes through which such moments of perceived discordance between codified law and moral schemas shape frontline officials' evaluation, advances current approaches in cultural and organizational sociology concerning the effects of moral schemas on law in action, and illuminates when and why decision makers are more or less likely to rely on preexisting biases and stereotypes, with implications for the study of inequality.

Asylum is one of the most significant global issues of our time. It is central to how states create and reinforce boundaries between their citizens and others,

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with implications for global patterns of inequality (Brubaker 2015). For the majority of persons fleeing persecution, the only way to find safety in the United States or one of the prosperous democracies of the Global North is to reach their territories and ask for asylum (FitzGerald 2019). In the United States, such persons will receive asylum if they are found to meet the statutory definition of a refugee who is fleeing persecution “for reasons of race, religion, nationality, membership of a particular social group or political opinion.”² This article presents a new understanding of how asylum officers determine eligibility for asylum. More precisely, it is about the *process* of making these decisions and the constant negotiation between categorizations of deservingness and codified law this process entails.

The asylum officers who make these critical determinations serve as the hands of the state (Morgan and Orloff 2017), and, as such, their decisions have substantive impact on people’s lives. Understanding the processes by which asylum officers make those decisions and the factors that influence them speak directly to questions of law in action and the state. Far from simply checking boxes, asylum officers are tasked with two responsibilities: safeguarding the state’s symbolic and physical borders and providing protection to persons fleeing human rights abuses. These two demands, however, are often in tension with one another, and state officials must manage this tension within the confines of rule-governed state bureaucracies. This study draws on 30 interviews with U.S. asylum officers as well as case law and policy documents in order to understand how officers negotiate these tensions as they implement asylum law—a topic about which we know far too little, despite the abundant literature examining the development of asylum policy in the United States and globally (Reimers 1992; Loescher and Scanlan 1998; Hamlin 2012).

The theoretical ambition of this article extends beyond a description of asylum status determinations. I also use the case of asylum decision-making as a means to analyze how frontline state officials draw on culturally embedded categorizations of deservingness when applying agency rules. By *categorizations of deservingness* I refer to socially constructed cultural distinctions that are shared and learned within a given institutional context and time period, concerning who is “deserving” or “undeserving” of a right, resource, benefit, or punishment (Wood et al. 2018). Multiple factors, including biases and perceptions of others (Lamont 2018), professional identities (Watkins-Hayes 2009), internalized professional missions (Jones-Correa 2005, 2008; Lewis and Ramakrishnan 2007; Marrow 2009), and political cultures (Levi

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² Refugee Act of 1980, Pub. L. No. 96-212, 94 Stat. 102. (codified as 8 U.S.C. §§ 1157–1159 [1980]).

and Sendroiu 2019), shape how decision makers attribute meaning to categorizations of deservingness. But unlike credibility determinations, which are case specific and involve the traits/behaviors of particular persons, categorizations of deservingness are not reducible to individual-level values. Rather, categorizations of deservingness concern a moral boundary shared by multiple actors; they “are tools by which individuals and groups struggle over and come to agree upon definitions of reality” (Lamont and Molnár 2002, p. 168).

To date, there is little theorization of the multiple ways categorizations of deservingness interact with codified law as it is applied to real-life cases. Specifically, existing studies overlook how, in the course of applying rules to complex cases, frontline actors negotiate a complex interplay between a claim’s *formal eligibility* for a prescribed right/benefit under codified law and its perceived *deservingness* for that right/benefit as shaped by shared moral schemas. This negotiation process often results in a mismatch between moral and codified definitions of eligibility, with implications for how frontline actors evaluate applicants’ credibility. Frontline actors, for example, may construe a claim as aligning with categorizations of deservingness despite the claim’s formal ineligibility under codified law. In these situations, frontline decision makers tend to assume the sincerity of applicants’ claims. That is, they focus not on interrogating case-specific credibility (are the applicants *truly* who they say they are) but rather on the *discordance* between their perception of the claim as deserving of asylum protection and the claim’s lack of legal fit under codified law.

I term these instances of mismatch “encounters of *ordinary discordance*.” They are *ordinary* in that they are a recurring part of organizational practices—to wit, “cases that cannot be handled promptly but that fall within the range of situations that street-level bureaucrats are familiar with” (Zacka 2017, p. 71) and that are a form of “routine nonconformity” (Vaughan 1999) that decision makers encounter as they consider applications for asylum. Yet, to date, social scientists have not considered the theoretical and practical significance of ordinary discordance for how frontline actors draw on moral categorizations when applying agency policies and procedures.

In the context of U.S. asylum policy, frontline asylum officials often discuss encounters of ordinary discordance in relation to claims involving gender-based violence. Gender-based violence is not a codified ground of persecution under asylum law. However, since the late 1980s and early 1990s, feminist legal activists working in the field of international law and human rights have argued that women subjected to sexual violence are deserving of asylum on account of their gender—a trait they cannot change or escape. Over the course of the 1990s, this idea was gradually incorporated in guidelines, law review articles, professional trainings, and case law, with important implications for how asylum decision makers interpreted and distinguished between deserving and undeserving refugees (Shiff 2020).

Changes in codified law were slower to come. While female genital cutting and some forms of domestic violence have been recognized by courts as formal bases for asylum, other forms of harm including rape, forced marriage, and sex trafficking remain outside the scope of codified law. Yet most of my respondents expressed a belief that these forms of violence *should* constitute a formal basis for asylum protection. In making this assertion, they referenced a moral understanding increasingly shared by many members of the asylum agency: that persons persecuted on account of traits that are definitive to their identity and bodily integrity such as gender and sexuality are deserving of asylum. This understanding of deservingness developed over the years and has been shaped by coalitions of legal activists, international and domestic guidelines, and case law. Officers who worked in the asylum office from the early to mid-1990s for an extended period of time recalled not initially sharing this understanding of deservingness but eventually coming to adopt it. How liberally asylum officers applied categorizations of deservingness, and what ethnic/religious/racial and otherwise categorizable groups they placed on either side of the boundary, varied over time as well as across and within asylum offices. When asylum officers construed a claim that fell outside the scope of codified asylum law as deserving of asylum, they experienced *ordinary discordance*.

Once we understand how frontline actors interpret and respond to situations characterized by ordinary discordance, we can begin to parse the dynamic processes through which moral categorizations shape law in action in the course of routine organizational practice. Take, for example, the encounter between asylum officer Julia and a Salvadoran applicant who sought asylum in the United States after being raped by gang members.³ Being a victim of rape is not a protected class under U.S. asylum law, but asylum officer Julia believed it should be and took steps for the applicant to obtain asylum, despite pressure to complete cases within a certain time as well as her supervisor's instructions to deny the claim. To use the terminology I am suggesting, Julia encountered discordance between her perception of the applicant's claim of rape as deserving and the applicant's formal ineligibility for asylum under codified law. The analytical framework I propose examines the distinct yet overlapping *affective*, *cognitive*, and *organizational* processes through which Julia and her colleagues responded to this kind of discordance as they evaluated applicants—from becoming emotionally invested in the case, to reflecting critically on the codified rules, to working within the agency's organizational procedures for dealing with nonconforming yet deserving cases. Specifically, I identify common patterns in how asylum decision makers

³ To protect confidentiality, I use pseudonyms for all my respondents (see Data and Methods below).

respond to encounters of ordinary discordance, thereby illustrating the interaction between moral schemas and law in action.

I draw on theories within cultural sociology on moral schemas, pragmatist theories on social action, and institutionalist and legal theories on processes of rule application within state organizations and beyond to examine how officers' encounters with ordinary discordance shape their evaluations. I show that when asylum officers categorize a claim that does not conform to codified definitions of eligibility as nonetheless deserving of asylum, they become emotionally invested in the applicant's case, attend more closely to the challenges faced by the applicant, and use case-specific information to think critically about the legitimacy of codified law. Put another way, these encounters of ordinary discordance generate opportunities for moral boundary work (Lamont 2000; Pryma 2017). Contrary to mainstream depictions of bureaucratic systems as rule bound and impersonal, my analysis suggests that state officials' need to reconcile situations characterized by ordinary discordance often prompts creative and morally conscious bureaucratic action. When confronted with discordance, frontline actors become "problem solvers."⁴

This analysis advances current sociological study of how moral schemas shape decision-making and contributes to a robust literature on how state actors negotiate gaps between rules and practices (Lara-Millán 2014; Mayrl and Quinn 2017). I contend that to understand the place of moral schemas (Wuthnow 1989; Turowetz and Maynard 2010; Alexander 2014; Abend 2016) in how officials apply agency rules to a complex reality, it is necessary to analyze how they negotiate the relations between moral schemas and codified law. Frontline actors routinely shift from situations in which a rule's fixed codifications are in accordance with its moral categorizations to situations of discordance between them. These transitions are theoretically important for they influence how frontline officials evaluate their subjects and define their gatekeeping roles. My framework enables us to identify more precisely the processes through which moral categorizations shape evaluation on the frontlines of the state.

My findings also have implications for the study of social inequality. They indicate that when and how frontline actors rely on group stereotypes depend on the accordance (or lack thereof) between categorizations of deservingness and codified law, which shapes in turn their disposition to case-specific information. In the case of asylum, outcomes depend not only on how much information is available but also on how officers use and approach case-specific information. When officers encounter standard claims—that is, claims that straightforwardly fit codified legal categories *and* extralegal categorizations of deservingness—they focus on verifying the applicant's credibility and are

⁴ In using this term, I draw on asylum officers' descriptions of ordinary discordance as a "problem" that they must "solve."

thus more likely to directly draw on stereotypes and biases and approach the applicant's information with suspicion. Conversely, when asylum officers encounter claims that do not qualify according to codified law but do resonate with schematic categorizations of deservingness, they become less skeptical of case-specific information concerning credibility and, indeed, use that information instead to critically reflect on the legitimacy of agency practices and regulations.

The article begins by exploring the role of moral categorizations in shaping processes of rule application in the immigration context and beyond. I next explain the value of distinguishing between the types of relations that emerge between codified and moral categories in processes of rule application. I provide new analytic terminology for identifying how actors working on the frontlines of the state interpret and respond to different configurations of accordance/discordance between law's moral and codified dimensions. I then identify the three types of processes—*affective*, *cognitive*, and *organizational*—through which asylum officers respond to ordinary discordance in the course of evaluating applicants. I conclude by summarizing my framework and discussing how it could be used to study rule application and evaluation beyond the asylum context.

DESERVINGNESS IN IMMIGRATION SCHOLARSHIP: CURRENT APPROACHES

Accounts of 20th-century U.S. immigration policy generally agree that current asylum policy is shaped by moral classifications. These studies show how lawmakers actively construct categorizations of deserving and undeserving immigrants in ways that are historically contingent, politically motivated, and suffused with biases (Zetter 2007; Long 2013; Saltsman 2014; Asad 2017; Dahlvik 2017). Distinctions between categories of deserving and undeserving immigrants and refugees have been explained as a function of, alternately, foreign policy interests (Coutin 2001; Sales 2002; Boyle and Busse 2006; McKinnon 2016), anti-immigration forces (Capetillo-Ponce 2008; Chavez 2013), political culture (Pratt and Valverde 2002; Gibney 2004; Yoo 2008), criminal stigma, and shared stereotypes (Volpp 1996; Bhabha 2002; Luibhéid 2013; Ryo 2016; Flores and Schachter 2018).

According to some scholars, immigrants' encounters with institutionalized definitions of deservingness shape their self-identification and behavior. Coutin (2003) analyzes how undocumented immigrants applying for Suspension of Deportation before U.S. immigration judges change their habits and self-definitions to meet the categorizations of deservingness imposed on them by the legal system. Menjívar and Lakhani (2016) demonstrate that immigrants' classifications as desirable or undesirable have transformative effects on their lives and identities. And Andrews (2018) shows how the state's

“moralizing regulation” spurs immigrants to act strategically in ways they believe state agents will perceive as “good.”

These studies illuminate how the moral categorizations imposed on immigrants by state institutions affect the former’s practices and self-identification. But how do these moral categorizations inform the decision-making practices of the agents charged with applying agency policy? Some scholars contend that we should approach immigration authorities as street-level bureaucrats who use their discretion to interpret agency policy (Asad 2019; see Lipsky [1980] 2016). From this perspective, immigration authorities are not just rule followers constrained by organizational routines (Gilboy 1991) but rather creative actors motivated to deviate from routine procedure to assist deserving immigrants. Moral categorizations nonetheless remain a vague concept in these studies, with some scholars conflating the categorizations with immigration officials’ personal attitudes and biases (Satzewich 2014; Wettergren and Wikström 2014; Villegas 2015; Clair and Winter 2016) and others with internalized values of “right” and “wrong” that are external to, and stand in opposition to, restrictive rules (Vega 2018). When scholars do attend to the role of moral categorizations in shaping asylum law (Fassin 2013), they do not examine how these moral categorizations operate in the first place—that is, how they interact with codified law and how frontline officials respond when those interactions alternately align or reveal disjunctures between codified law and moral categories.

This theoretical occlusion is not specific to immigration and asylum scholarship. Sociologists of culture and practice theorists have ably documented the constitutive nature of moral schemas—how they shape people’s aspirations and actions (Frye 2012), whether by influencing the repertoires of action used to achieve a certain goal (Swidler 1992; Lamont 2000; Lamont and Huutoniemi 2011) or by shaping the ends of action (Vaisey 2009; Vaisey and Lizardo 2016). But to date, we lack a theoretical framework for understanding the dynamic role of moral categorizations in processes of rule application. An increasing number of scholars have shown how state bureaucrats can act out of self-sacrifice (Dilulio 1994; Hupe and Hill 2007), in accordance with their moral dispositions (Zacka 2017), and in ways that exclude information that does not align with their shared moral schema (Yngvesson 1988; Hasenfeld 2000). But these studies grant little explanatory power to the ways in which moral categorizations and codified law interact and the role of those interactions in shaping evaluation.

By contrast, I investigate these interactions by comparing two recurring types of encounters between state actors and applicants: (1) when state actors take extra steps to interrogate the credibility of applicants whose claims are formally eligible and deserving and (2) when state actors deviate from routine procedure to assist applicants whose claims are formally ineligible but whom state actors nonetheless construe as deserving for the ascribed right/benefit. I

contend that it is conceptually useful and empirically important to distinguish between these types of situations. As I will show, these encounters between state officials and applicants reveal the fit (or lack thereof) between a rule's implicit moral dimension and its codified categories, with important implications for how state officials use case-specific information to evaluate applicants.

FRONTLINE DECISION MAKERS AS PROBLEM SOLVERS:
NEGOTIATING THE RELATIONS BETWEEN MORAL
CATEGORIZATIONS AND CODIFIED LAW

In theory, for a rule to maintain viability, its publicly fixed codifications must resonate with culturally embedded categorizations of deservingness. But rules never remain in abstract form. The real test of a rule is its ability to be applied "successfully in unfamiliar cases" (Sewell 1992, p. 18). When rules are applied in the "real world," their fixed codifications and constitutive moral schema are transposed to new contexts. This process introduces variation into the meanings of both these dimensions and can result in a gap between the codified dimension of rules ("law on the books") and their performance ("law in action"; Feldman and Pentland 2003; Mahoney and Thelen 2010). Practice theorists show how the multiple relations that may form between the codified and moral dimensions of rules generate openings for institutional change (Bourdieu 1990; Sewell 1992; Feldman and Pentland 2003). But how do frontline agents negotiate changes in the relations between a rule's codified and moral dimensions, and what implications do these negotiations have for how they evaluate applicants and define their gatekeeping roles?

I argue that applying a pragmatist lens to practice theories provides an alternative approach to the study of moral categorizations and their role in processes of rule application. A core focus of pragmatist theories is how people make sense of their encounters with others and then act on those understandings. From a pragmatist perspective, much social action is habitual. Habits refer to "acquired dispositions to ways or modes of response" (Dewey 1922, p. 42) of which actors are not typically conscious. When habits fail to resolve a problem at hand, the problem rises to the forefront of consciousness and social actors become "problem solvers" who creatively seek solutions (Gross 2009; Ermakoff 2010, 2017; Luft 2020). Building on this work, I refer to situations in which moral categories and codified law fail to align as moments of *ordinary discordance* with which decision makers must creatively contend. Decision makers in these situations cannot default to preestablished scripts but rather must devise alternative solutions (Joas 1996). In the following section, I distinguish relations of ordinary discordance from two other prototypical configurations of moral and codified categories that emerge in processes of rule application, what I term relations of "accordance" and relations of "extraordinary discordance."

“Moral Schema”

<i>Codified Law</i>		Deserving	Undeserving
	Formally Eligible	Accordance	Extraordinary Discordance
	Formally Ineligible	Ordinary Discordance	Accordance

FIGURE 1.—Accordance and discordance between schemas of deservingness and codified law

A Typology of Interactions between Categorizations of Deservingness and Codified Law

Relations of accordance.—When frontline decision makers successfully match the characteristics of a claim with a rule’s codified *and* moral categories, they achieve accordance (see fig. 1). Let’s take the case of an activist who was tortured by government officials for his antigovernment political opinions. Here the asylum officer would likely categorize the claim as formally eligible for asylum: persecution on account of political ideology is a codified ground for asylum. The asylum officer would also view this type of claim as deserving for asylum: the idea that persons persecuted on account of their ideology are deserving of asylum is deeply ingrained within U.S. asylum culture and practice.

In practice, this matching process is often automatic. Legal codifications and categorizations of deservingness are enmeshed together in the form of institutionalized scripts associated with distinct case types (Emerson 1983; Gilboy 1991; Lempert 1992). Like other repeat players faced with decision-making in similar cases (Galanter 1974), asylum officers accumulate considerable information about cases and their typical features and develop scripts for each national/ethnic/racial group (Waegel 1981, pp. 272–73). Each of these scripts consists of a detailed narrative that casts content into law’s codified categories. When asylum officers encounter a new claim, they assess its fit with one of the scripts associated with the applicant’s national/ethnic/racial group. Sometimes the fit will be more straightforward and sometimes less so. A successful matching process results in *accordance*.

Relations of accordance do not necessarily lead to a positive outcome for the applicant. Asylum officers, for example, may suspect that the applicant is not telling the truth. This may be due to officers’ past experience with fraud, the repetitiveness of the claim, officers’ race/gender/religion-based stereotypes concerning dishonesty, or some combination of these. The resources at officers’ disposal and the organizational constraints under which officers are operating determine the extent to which they are able to verify their suspicion.

More often than not, officers face missing or conflicting information and must use their discretion to assess the veracity of the applicant's claim.

Consider the example of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which expanded the refugee definition to include people in China who are forced to abort a child or undergo sterilization or who reasonably fear such procedures.⁵ Under the act, any Chinese applicant claiming persecution or fear of persecution on account of coerced family-planning strategies is eligible for asylum. Asylum officers attested that the majority of Chinese applications qualified for asylum under the new law. Most asylum officers also viewed the law as morally legitimate and agreed that Chinese applicants who were indeed fleeing coercive family-planning strategies were deserving of asylum. Officers questioned, however, applicants' *credibility*: Were the applicants *truly* who they said they were? Were they *really* persecuted? Asylum officers often did extra work to investigate these questions, investing time and devising tests to detect inconsistencies in applicants' testimonies.

This definition of *accordance* distinguishes culturally embedded categorizations of deservingness, which are schematic and concern institutional worth, from credibility determinations, which are case specific and operate at the level of the individual. Mainstream accounts of the street-level work of state officials in the asylum context and beyond obscure this distinction, focusing primarily on the factors that lead officials to depict their clients as credible and trustworthy (Fukuyama 2001; Mizrahi, Drori, and Anspach 2007; Delhey, Newton, and Welzel 2011). But *how* asylum decision makers approach the very question of credibility varies depending on whether they encounter situations of accordance or discordance. In their initial interaction with applicants, decision makers form an assessment of applicants' credibility. When a claim's formal eligibility (under codified law) aligns with its perceived deservingness (in accordance with schematic moral categories), officers focus on credibility to determine whether the applicant should be granted asylum. In contrast, in situations characterized by discordance, frontline actors shift their attention from the applicant's credibility per se to think more broadly and critically about the scope of codified law and its limitations. Put another way, they actively seek to (re)negotiate the meaning of codified law in relation to categorizations of deservingness—and, in doing so, often reaffirm their initial assessment of the applicant as credible.

Relations of extraordinary discordance.—When decision makers categorize a formally eligible claim as failing to align with culturally embedded categorizations of deservingness, they experience “extraordinary discordance” (see fig. 1). Encounters of extraordinary discordance emerge when frontline actors contest the moral logic of codified law. In these situations, frontline

⁵ In 2015, China ended its one-child policy. This change has had an impact on Chinese immigrants' ability to claim asylum based on coercive family-planning laws.

actors categorize the applicant as undeserving not because the applicant lacks credibility (on the contrary, the applicant is often presumed credible), but because the frontline actors view the codified law defining eligibility as lacking moral legitimacy.

Encounters of extraordinary discordance are disruptive to the normal functioning of social institutions. They are *extraordinary* in that they do not constitute a recurring and ordinary aspect of the day-to-day evaluation process; the bureaucratic system could not function if they did. The case of Kim Davis, the county clerk who defied a U.S. federal court order that codified same-sex couples' right to marry (*Obergefell v. Hodges*, 576 U.S. 2015), is a relatively recent and prominent example. When Davis was asked to implement the court's ruling, she encountered a discordance between codified law and the moral definition of marriage to which she subscribed. Davis was not concerned with same-sex couples' credibility nor did she critique how broadly or narrowly the marriage law was being applied. Rather, she refuted the moral logic defining the new marriage law: that the right to personal choice regarding the sex of one's marriage partner is inherent in the concept of individual autonomy. For Davis, the core moral component of marriage is its conjoining of one man and one woman. In other words, she contested the nature of the moral boundary used by the state to define the law. The case received national attention not only because of its controversial politics but also because such instances of state actors explicitly contesting the rules they are supposed to uphold are so extraordinary.

To be sure, the history of immigration policy in the United States presents us with multiple instances in which state officials have challenged the moral legitimacy of codified law. The point is not that such situations never happen, but that if recurrent, they have the potential to spark institutional crisis. Toward the end of the Cold War, for example, increasing numbers of immigration officials began to contest the moral legitimacy of the existing refugee definition according to which only persons fleeing communist countries are deserving of asylum. Instead, officials claimed that refugee law should be based on a humanitarian logic that prioritizes the individual's plight over domestic and foreign policy interests (Hamlin and Wolgin 2012). More recently, asylum officers who worked under the Trump administration have begun critiquing the moral legitimacy of some of the administration's newly enacted policies and rules (O'Toole 2019).⁶ In the eyes of many of these officers, the new policies are morally illegitimate and undermine the humanitarian goals of asylum.

⁶ This includes the Migration Protection Protocols, which state that all asylum seekers must wait outside the United States for the duration of their proceedings, and the Third Country Transit bar, which requires that any asylum seeker who "enters or attempts to enter the United States across the southern land border . . . after failing to apply for protection from persecution or torture while in a third country through which they transited en route to the United States is barred from asylum protections in the United States." See "Asylum Eligibility and Procedural Modifications," *Federal Register*, vol. 85, no. 243, p. 82260 (Thursday, Dec. 17, 2020). <https://www.justice.gov/eoir/page/file/1345731/download>.

Sociologists and state theorists have pointed to the disruptive potential of this form of discordance (Swidler 1986; Campbell 1998). Some scholars show that when codified law ceases to coincide with widely held categorizations of deservingness, it becomes denaturalized, is considered morally unjust, and provides some groups with opportunities to openly contest it (Douglas 1986; Bourdieu 1991; Foucault 2002; Loveman 2014). These are situations characterized by unstable or nonexistent cultural scaffolding (Lizardo and Strand 2010), in which structural breakdowns cause disruptions in routine practice (Ermakoff 2010; Reed 2016). These situations are distinct from situations characterized by ordinary discordance—the focus of this article—in which front-line actors contest not a rule’s moral legitimacy but rather how its codified categories are applied. It is to these cases that I now turn.

Relations of ordinary discordance.—Relations of ordinary discordance occur when decision makers construe a claim as deserving of a benefit/right despite the claim’s formal ineligibility for the latter (see fig. 1). Not all formally ineligible cases generate encounters of ordinary discordance. Asylum officers often stated that claims involving flight due to economic distress and generalized violence would not disrupt their routine practice: the *accordance* between the claim’s lack of legal fit and lack of perceived deservingness for asylum enabled officers to straightforwardly reject applicants’ claims. Accordingly, for ordinary discordance to occur, a claim has to fall outside the boundaries of codified law yet simultaneously resonate with internalized categorizations of deservingness. As previously discussed, in the context of asylum this form of discordance would come up in relation to claims involving various forms of gender-based violence. Asylum officers often agreed that women who escaped sexual violence are deserving of asylum despite their lack of formal ineligibility under codified law.

Decision makers, of course, differ in how often and how strongly they experience ordinary discordance. In the context of asylum, this would often depend on how liberally or conservatively asylum officers construed categorizations of deservingness, their power status within the organization, and how they perceived their professional roles—factors that were, in turn, informed by their personal preferences, social attributes, politics, former work experience, and organizational culture. Notwithstanding these important differences, nearly all the officers I interviewed described encountering ordinary discordance in the course of their work.

Situations characterized by ordinary discordance make visible moral and codified categorizations that are otherwise taken for granted. As such, they provide a unique opportunity to empirically examine the varied processes— affective, cognitive, and organizational—through which moral categorizations shape evaluation. These processes reveal a hitherto neglected dimension of evaluation on the frontlines of state action: how decision makers negotiate moral categorizations, as these interact with fixed legal codifications,

when applying law to a complex reality. I use the case of asylum decision-making to identify asylum officers' affective, cognitive, and organizational responses to situations of ordinary discordance and consider their implications for how officers define their gatekeeping role and evaluate applicants.

DATA AND METHODS

This article develops a theoretical framework for analyzing how state actors respond when confronted with situations of discordance between codified rules and moral categorizations. A case study is appropriate for such theory development as the approach generates detailed knowledge of one such bureaucratic system (Espeland and Sauder 2007). I focus on asylum officers because they, more than heads of state and upper-level officials, are responsible for routinely enforcing agency rules. Asylum officers are employees of the U.S. Office of Citizenship and Immigration Service (USCIS), which is housed within the Department of Homeland Security (DHS). They are responsible for processing applicants who have not been placed in removal proceedings in immigration court. I conceptualize asylum officers as street-level state bureaucrats: lower-level public employees charged with interpreting and enforcing often ambiguous law while interacting with the individuals subject to the said policy (Lipsky 2016). In the course of analyzing how asylum officers categorize deserving and undeserving immigrants, I realized how central the relations between moral and codified categories are to this process.

The empirical analysis for this article draws on multiple sources of data, including policy documents (i.e., agency training manuals, memos, and case law), in addition to original data collected from extensive fieldwork. In 2016–17, I conducted 30 semistructured interviews, averaging about 90 minutes each, with former USCIS asylum officers. Asylum officers are prohibited from publicly speaking about their work, and USCIS does not publicize any information about former asylum officers. I therefore located asylum officers' contact information by searching LinkedIn profiles for people who worked as asylum officers. I used this information to arrange interviews with 23 former asylum officers. I secured the additional interviews using snowball sampling. I interviewed officers from seven asylum offices: Arlington (Va.), Chicago, Los Angeles, Newark, New York, New Orleans (a suboffice of the Houston asylum office), and San Francisco. This is the first empirical study to interview this many U.S. asylum officers. The descriptive statistics of the sample are shown in table 1.

Interviews are the method best suited for the subjective interpretations of social processes. Interviews can reveal the imagined meanings people attribute to their activities as well as their self-concepts and categorization systems—information that is critical to our understandings of the dilemmas inherent to

TABLE 1
DESCRIPTIVE STATISTICS OF THE TOTAL SAMPLE

Sample characteristics	Number (<i>N</i> = 30)
Sex:	
Female	22
Male	8
Race/ethnicity:	
White	24
Cuban	1
Asian/Pacific Islander	2
Latina/o	3
Average years within the asylum office:	
1–2	15
3–5	7
6–9	8
Prior government work experience:	
Yes	8
No	22
Juris doctor:	
Yes	24
No	6
Time period during which officers worked (years):	
1993–2001	9
2002–9	7
2010–14	7
2015–17	7
Asylum office:	
Arlington (Va.)	4
Chicago	3
New Orleans	2
Los Angeles	7
Newark	5
New York	4
San Francisco	5

evaluative processes and that generally cannot be obtained without asking (Yin 2003; Lamont and Swidler 2014). The asylum agency does not permit observations of the asylum interview process. Practicing officers are subject to confidentiality agreements and are prohibited from speaking publicly about their work. Due to these and other restrictions, I was unable to sit in on actual asylum interviews and observe officers' interaction with applicants. Although it is likely that officers either overemphasized or underemphasized various aspects of their work, for the purposes of this article, I am particularly interested in officers' subjective impressions of their interactions with applicants and their roles as evaluators. These are key to understanding officers' evaluation of applicants.

To protect confidentiality, I use pseudonyms and refrain from explicitly mentioning officers' asylum office location and dates of employment. Interviews

were tape-recorded and transcribed word for word when participants consented. I conducted interviews using an adaptive format that enabled me to adjust my questions to officers' diverse experiences and to gather information about a process for which we currently have little empirical data. Following Lamont's (2009) protocol for discerning evaluative criteria, I asked asylum officers about recent applicants and the factors they considered when determining their eligibility. I developed coding categories inductively and continuously refined them as I proceeded. In initial coding rounds, I coded mentions of any factors, processes, or criteria that my respondents used to assess applicants. I did not originally intend to analyze how decision makers contend with moments of discordance; rather, I set out to evaluate how organizational routines lead asylum officers to default to preestablished scripts when evaluating applicants. But in the course of my interviews, officers described moments when they could no longer default to preestablished scripts. I began to focus on these recurring descriptions with the goal of better understanding what in my respondents' eyes caused disruptions in their work routines and how they responded to these disruptions. I asked officers to reflect on their decision-making process in situations of discordance: the focus of their interview, the types of questions they would ask, the information they relied on, the extent to which they discussed cases with colleagues, their gate-keeping roles, and their understandings of asylum deservingness. I developed secondary codes to capture different types of disruptions in officers' work routine. I differentiated between disruptions caused by extralegal factors (security and/or foreign policy concerns) and disruptions caused by what officers described as tensions between notions of deservingness and codified law. This included codes referring to (1) how officers defined different types of categorical misfit, (2) the terminology and level of detail officers used to describe applicants, (3) officers' references to group stereotypes, and (4) officers' affective tone and descriptions of emotional labor. I followed a similar process to code officers' approach to applicants in situations of routine processing. Finally, I developed codes to capture the steps officers reported taking to address situations of perceived discordance and the meanings they attributed to their efforts. My interviews with asylum officers were often emotional: officers fluctuated between anger, frustration, and happiness when describing their interactions with both supervisors and asylum applicants.

I broke down officers' responses by their former professional work experience. In my analysis, I reflect on how this shapes officers' experiences with, and responses to, discordance. My interviews are not meant to constitute a representative sample of asylum officers nor is my goal in this article to explore how the social positioning of asylum officers shapes their evaluation. Rather, the purpose of this analysis is to illuminate, through close examination of one case study, a process of moral evaluation that, to date, has been

undertheorized. This project of theory building can, in turn, provide a basis for exploring, through further research, variations along lines of race, gender, and class in how frontline agents negotiate discordance.

BEHIND THE SCENES OF ASYLUM ADJUDICATIONS

The Refugee Act of 1980, which is still the law today, created a statutory right to apply for asylum for any person physically present in the United States. For the first time, the United States ceased being a country of only overseas resettlement and started permitting refugees to enter its territory for purposes of providing asylum (FitzGerald 2019). The act also incorporated the United Nations definition of a refugee into the U.S. statute. In a sharp departure from Cold War refugee policy, which restricted refugee status to persons fleeing communism, asylum officials were now required to determine applicants' eligibility by ascertaining whether their narratives of harm fit within one or more of asylum law's codified bases for persecution.

Throughout the 1980s, the Immigration and Naturalization Service, the agency responsible for administering federal immigration laws, sought to create a new administrative apparatus capable of making the individualized determinations of likely persecution that the Refugee Act of 1980 required.⁷ On July 27, 1990, a final asylum rule promulgated by the attorney general established two routes for asylum: the affirmative application process, which is the focus of this article, and the defensive application process.⁸ Affirmative asylum adjudications are limited to applicants who have not yet been placed in removal proceedings. They are administered by asylum officers who interview on average over 28,000 cases a year, making the asylum office one of the largest adjudication systems in the United States (Schoenholtz et al. 2014).

The new asylum regime relies on a foundational understanding of categories of deserving and undeserving refugees: those deserving of asylum are people who had no choice but to flee their home country in order to secure their bodily integrity and identity. Undeserving refugees are those people who could avoid harm by changing practices and traits not considered essential to their personhood (Shiff 2020). This moral distinction is rooted in the notion, central to U.S. political culture, that it is unjust to discriminate against a person on the basis of "immutable" traits that are not chosen and that one

⁷ The agency ceased to exist under that name on March 1, 2003, when most of its functions were transferred to the DHS.

⁸ The defensive application process is administered by Department of Justice (DOJ) immigration judges and limited to individuals who are apprehended and placed in removal proceedings before applying for asylum.

is helpless to change (Clarke 2015). While the basic requirement of deservingness has remained constant, the meanings and categorical criteria of deservingness have shifted over time and been shaped by changes in policy, law, and politics.

In the United States, changes in the meaning of asylum law and its moral underpinnings were driven by substantial changes in U.S. immigration and asylum policy and in the institutional infrastructure of immigration governance. These include sharp increases in the number of asylum applicants since the early 1990s,⁹ especially at the U.S.-Mexico border, the transfer of asylum jurisdictions from the DOJ to the DHS in March 2003 (a move that led to a heightened emphasis on security and enforcement), and changes in the political administration and its priorities, alongside a growing awareness of and concern for human rights (Cmiel 1999). Increasing backlogs, documented cases of fraud combined with institutionalized bias, and a growing emphasis on security following the September 11, 2001, attacks led to increased suspicion toward entire ethnic/religious/national groups of asylum applicants. At the same time, over the course of the last several decades, groups once considered to be undeserving of asylum—such as women subjected to female genital cutting, persons persecuted on account of their sexual orientation, and, in some cases, victims of gang violence—have come to be regarded by an increasing number of asylum officers as deserving of protection. These changes in definitions of deservingness have not always coincided with changes in codified law.

The Process of Asylum Status Determinations

The affirmative application process was established with the goal of creating a new corps of professional asylum officers, “specialists, well-trained in refugee law and highly knowledgeable about conditions in source countries” (Beyer 1992, p. 456). While a juris doctorate is not a prerequisite to become an asylum officer, since the founding of the asylum corps there has been an increased emphasis on hiring officers with formal legal training; over the last two decades, the majority of newly hired asylum officers have a law degree (Schoenholtz, Schrag, and Ramji-Nogales 2014). Asylum officers are required to attend a several weeks–long asylum training course when they are first hired. The course provides officers with an overview of U.S. asylum law and international human rights and international refugee law, as well as an in-depth review of asylum procedures, decision writing, and interview techniques. This training informs officers’ gatekeeping roles. Officers often

⁹ The number of asylum applications filed increased from 60,000 applications in 1991 to over 150,000 by 1995. https://www.dhs.gov/sites/default/files/publications/Yearbook_Immigration_Statistics_1999.pdf.

emphasized their training in law and human rights in order to distinguish themselves from the more enforcement-oriented immigration agencies such as Immigration and Customs Enforcement and Border Patrol. At the same time, asylum officers devoted considerable time to background checks for applicants, as this task became a more central focus of their work when asylum jurisdiction transferred from the DOJ to the DHS in March 2003. Tensions between these service and regulatory missions varied across offices and over time but were an inherent feature of asylum officers' frontline work (fig. 2).

The affirmative asylum process officially begins when an asylum applicant files form I-589 and delivers it with supporting documentation to a service center, which then forwards the file to the appropriate asylum office. Form I-589 requires applicants to provide demographic information in addition to biographical information about their reason for flight. It also instructs applicants to check the box with the name of the persecution ground—race, religion, nationality, particular social group, or political opinion—that best fits their claim. This application serves as the basis for the in-person interview.

The assignment of cases for interviews is typically done at random. Depending on the asylum office, cases get preassigned to officers either several days before the date of the interview or on the scheduled day. Before each interview, officers are required to review applicants' I-589 form on top of security checks and country of information reports.¹⁰ Asylum officers typically interview for four days a week, leaving one day to write up their decisions. Before a decision letter is served, the supervisory asylum officer reviews the case for procedural and substantive correctness. If the supervisor and asylum officer are unable to agree on a decision, the supervisor elevates the issue to the director of the office. The director may decide to refer the case to headquarters for further review. If the decision is granted, the applicant will get asylum. Subject to some security checks, asylees get a green card and a path to citizenship. Applications that are rejected are referred to immigration court and placed in removal proceedings, where applicants have an opportunity to file their claim *de novo*. The majority of applicants placed in removal proceedings are eventually denied asylum.¹¹

The work of asylum officers consists of categorizing people as a precondition to their receiving asylum; Hasenfeld (1972) termed this kind of work "people processing." Similar to other documented cases of decision-making

¹⁰ Affirmative Asylum Procedures Manual, Refugee, Asylum, and International Operations Directorate, USCIS, May 2016. <https://www.uscis.gov/sites/default/files/document/guides/AAPM-2016.pdf>. Retrieved July 7, 2019.

¹¹ TRAC Immigration. <https://trac.syr.edu/immigration/reports/539/>. Accessed October 21, 2020.

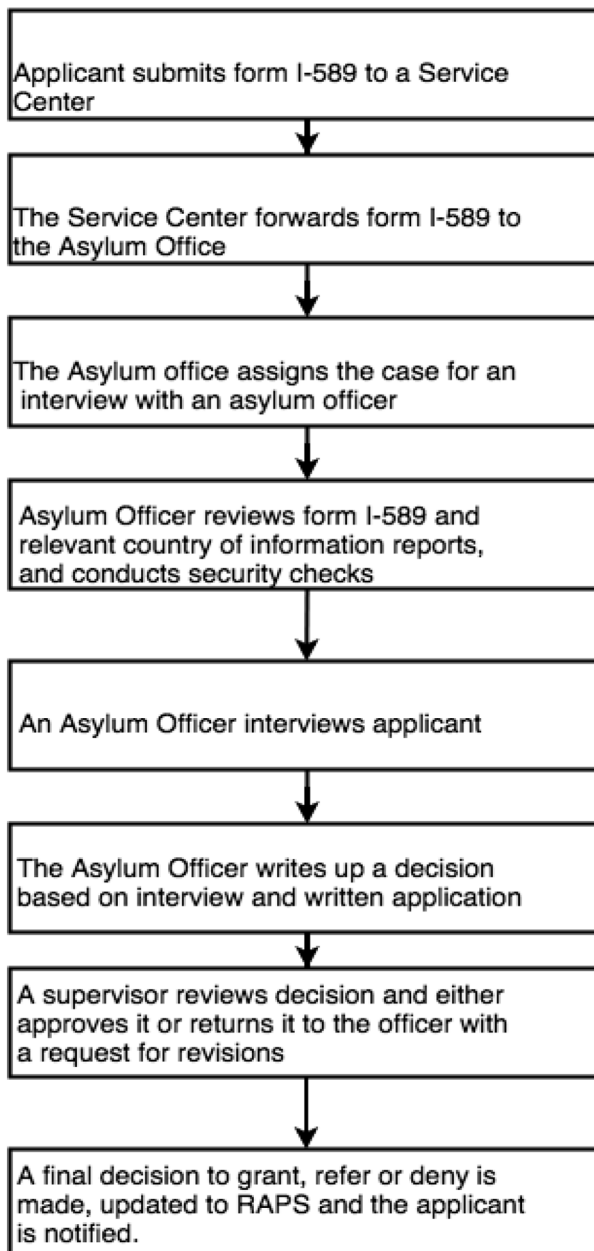


FIGURE 2.—Stages in the affirmative asylum determination process

under conditions of limited resources, officers accumulate information about cases and their typical features and establish scripts for distinct groups of applicants (Gilboy 1991). Officers assess individual applications in relation to the scripts established for the applicants' racial/ethnic/religious group(s). Fact patterns such as being persecuted for publicly voicing political opinions, practicing a religion, or being harmed because of skin color trigger asylum officers' use of scripts that enmesh categorizations of deservingness and codified rules. With few exceptions, most officers described this matching process as "straightforward" and requiring little thought. Conversely, officers described their routine as disrupted when they encountered claims that were not formally eligible but nonetheless resonated with culturally embedded and widely shared categorizations of deservingness.

In the following section, I demonstrate *how* asylum officers negotiated categorizations of deservingness for asylum vis-à-vis codified law when in the course of applying asylum law to real-life cases these criteria ceased to align. I identify and examine three central processes through which asylum officers responded to encounters of ordinary discordance as they evaluated applicants: (1) affective processes whereby discordance leads officers to become emotionally invested in the case; (2) cognitive processes whereby discordance facilitates reflexive and critical thought; (3) organizational processes whereby discordance prompts officers to seek organizational loopholes/solutions for deserving but formally ineligible claims. These processes reveal the dynamic course through which moral categorizations shape law in action on the frontlines of the state. They shed important light on the role of emotions and cognition in the making of state policy and politics.

AFFECTIVE PROCESSES

Officers' evaluations of deserving yet formally ineligible applicants were influenced by the former's emotional involvement. Erica explained that these cases were emotionally exhausting for her because, as she put it, "The law is not there for it. That is really hard. You want to be able to grant these cases, but you just can't because the law is not there." When I asked Kate to describe some of the challenges of adjudicating asylum claims, she discussed the difficulty of not being able to help those she felt were deserving of assistance: "The emotional impact and not being able to help people that needed it; hearing the traumatic experiences of people. When you are referring someone that you know needs help but doesn't fit, it was [emotionally] hard." Many of the officers I interviewed described such encounters of discordance as "tragic," "horrrendous," and "very hard."

Emotions motivate subsequent behaviors and play an important role in decision-making; when people feel emotionally invested in a case, they are willing to devote more time and resources to that case, even when doing so

negatively affects other cases (Robinson, Watkins, and Harmon-Jones 2013; Bruch and Feinberg 2017). Asylum officers described feeling frustrated when faced with codified law too narrow to accommodate deserving claims. I asked officers how they responded in such situations. Many remarked that their frustration heightened their emotional commitment to applicants. Amy recalled these situations as disturbing and described feeling “so overwhelmed, that I am going to start crying and I remember thinking, am I even being objective or am I relating to her so emotionally? That was hard for me.” Larry described feeling like he was “advocating for these people even though I was supposed to be neutrally adjudicating their case.”

This was in contrast to officers’ descriptions of the emotional detachment they experienced when processing repetitive and standard claims. Riva explained, “A lot of people are fleeing the same thing and the monotony of the process is overwhelming . . . you really feel like a robot while the person on the other end of the line is telling you the most graphic story.” For Barb, the hardest part of the job was “getting cynical about the stories . . . hearing horrible stories and as you hear this stuff more and more it becomes more normal and [you get] too cold and cynical about the people involved. You wonder if you even see a person or a paper they have to complete.” For most asylum officers, emotional detachment constituted a source of guilt and frustration, prompting feelings of cynicism and jadedness. According to Hochschild ([1983] 2012), tensions between peoples’ actual experiences of an event and the appropriate way to think about it as defined by shared *feeling rules* (i.e., cultural norms about the appropriate type and intensity of feelings that should be experienced) lead to emotional distress and further detachment. Asylum officers often rationalized their emotional detachment as a function of applicants’ lack of credibility.

Conversely, officers described encounters characterized by strong emotions of empathy, sympathy, and pain as moments of “emotional truth” (Illouz 2017): an experience of intimacy that cannot be described in words and that participants tend to prioritize as being more important than the factual circumstances meant to reflect it. Melissa recalled how, despite time pressures, she and her colleagues would “talk it out and make new law. We were willing to take leaps like that, intellectually, if the law did not exist, we decided what it should be. We were looking for *truth and justice*” (my emphasis). In the course of these debates, officers negotiated law’s moral boundaries. When law failed to provide a basis for a deserving claim, they took the liberty to stretch, manipulate, and even undermine fixed codifications. Specifically, officers drew on their experience of emotional truth to justify their deviation from standard procedure and their creative recrafting of applicants’ claims. This is exemplified in asylum officer Diana’s account of her encounter with an Eritrean applicant. The applicant presented a fabricated claim of religion-based persecution, but during the interview Diana realized

that the woman was a victim of sex trafficking—a harm not formally recognized as grounds for asylum. Diana’s frustration at the limits of codified law heightened her sense of emotional commitment to the applicant, leading her to knowingly grant the woman asylum on the basis of her fabricated claim of religious persecution: “I don’t want to water down what the law is but here is someone who is *really* in need of protection . . . so, I just took what they said as true even though it did not make sense that it would have been true . . . but then here was a woman who I really felt needed protection. It is a kind of weird place to be in.” These examples complicate mainstream accounts of asylum officials as professionally detached bureaucrats (Wettergren 2010) who easily draw boundaries between themselves and immigrants in order to prevent emotional conflicts (Puthoopparambil, Ahlberg, and Bjerneld 2015). Indeed, for officers who encountered a high volume of repetitive claims, and who operated under time pressures to streamline cases, the emotional experience prompted by encounters of ordinary discordance became a means to escape the robotic nature of their work.

When officers were able to grant a deserving claim, they experienced gratification. As Mark recalled, “The ones that were most fulfilling, involved granting a case where people had really gone through horrific experiences and I know that this is turning a page in their life and they were not faced with constant fear.” Conversely, when I asked officers about situations in which their attempts to secure asylum for deserving applicants failed, they talked about their disappointment at not being able to do their job. Kevin explained how “all this stuff still affects me greatly, knowing that [the applicant] experienced that, and I couldn’t help him.” Officers’ inability to secure asylum for individuals they believed were deserving took an emotional toll, leading many to develop cynicism toward the institution and its purported goals.

COGNITIVE PROCESSES

Asylum officers’ encounters with ordinary discordance also influenced their evaluation by promoting critical and reflexive thinking about the asylum adjudication process itself. Ordinary discordance disrupted officers’ routine processing of cases, leading them to critically reflect on established agency procedures. This is in line with cognitive research that suggests that when existing schema fail to account for new stimuli perceived to be morally salient, people shift from automatic cognition to deliberative cognition that is “explicit, verbalized, slow and deliberate” (DiMaggio 1997, p. 271; Fiske and Taylor 2013). These studies show that when actors find themselves in situations in which routine scripts cannot provide guidance, they shift to non-habitual and explicit problem solving (Luft 2020). “Special cases” for which

decision makers cannot readily supply anecdotal characterizations prompt “special consideration” and inspire more debate among decision makers than do straightforward cases (Sudnow 1965, p. 274; Baker 2013). Such situations force consciousness to the foreground as actors struggle to find a way forward (Kurzman 2004; Ermakoff 2010; Reed 2016). Conversely, when things are operating as expected, decision makers are generally unreflective of their categorizations. However, situations characterized by discordance, in which category membership is ambiguous, prompt decision makers to consciously think about their categorizations (Freeman and Ambady 2011).

In frontline agencies such as the asylum office, such deliberative cognition is costly. It disrupts routine processing and is inefficient from an organizational perspective (DiMaggio 1997). Asylum officers often noted that the work routine in the asylum office did not encourage deliberative modes of thought—quite to the contrary. Asylum officers accumulated information about cases and their typical features and formed established scripts for each principal group of applicants. Officers routinely relied on these scripts when attempting to process claims in a time-efficient manner and engaged in an automatic categorization process that required little reflective thought. When I asked Nora whether she felt able to evaluate applications on a case-by-case basis, she explained, “There are so many applicants you are reviewing and when you see the same type of claim it is kind of easy to go into autopilot. You can expect this person to say this and then they will say that.” Maya similarly stated, “After you are there for a while, certain fact patterns go into the *easy* category . . . you can get used to interviewing those types of cases and you can kind of do the same lines of questioning.” Such routinized habits were exacerbated by the time pressure of asylum adjudications; the sheer velocity and volume of the work that asylum officers undertook threatened their capacity to approach each case on its merits and to remain sensitive to its peculiarities (Hambly and Gill 2020).

And yet, when officers encountered claims that generated a mismatch between codified law and their understanding of deservingness for asylum, they transitioned from modes of automatic cognition to deliberative cognition. In these situations, officers questioned the meaning of taken-for-granted scripts. Riva explained how she was “constantly thinking of how elastic these terms are, the essence of the law.” According to Sarah, “You have to start thinking, well is this [established law] too narrow, is this too broad, how am I going to solve this because I know in my gut that this person is a [deserving] refugee.” This, in turn, led to more discussions among coworkers. According to Jack, “There was a lot of knocking on doors, a lot of talking.” In the course of these informal discussions, officers debated the meanings of moral categorizations and their relation to codified law. This often resulted in officers influencing one another’s perceptions and decisions. These discussions created a different set of dilemmas, centered less on applicants’ social attributes and presumed

credibility and more on the meaning of deservingness for asylum and the extent to which codified law should be loosely versus strictly interpreted. Officers debated categorizations of deservingness: Why was a given narrative deserving of protection while another was not? Kevin recalled how his encounter with an applicant who was forced to carry her baby to term made him question why only women forced to undergo an abortion were deserving of asylum. For Kevin, deservingness was tied not to the codified grounds for asylum but to the experience of losing one's sexual freedom; as he put it, "If you are female, then done. You *deserve* asylum protection."

In the process of debating categorizations of deservingness, officers reaffirmed a moral boundary that demands protection for those persecuted for traits fundamental to their personhood. Officers often depicted women and children, people with disabilities, and freedom fighters subjected to systemic violence as more deserving of asylum protection than those fleeing poverty and generalized forms of violence. At the same time, asylum officers differed in how broadly they applied this moral boundary and which racial/ethnic/religious groups of applicants they placed on either side of it. These differences introduced variation to the meanings that officers attributed to categorizations of deservingness and to how they sought to apply them.

Encounters with ordinary discordance also informed how officers drew on stereotypes in the course of evaluating applicants. Studies in psychology and social cognition demonstrate that unexpected events are more likely stored as detailed context-specific episodes relative to standard events, which, by contrast, are retained in abstract, semantic form (Gawronski 2012). Accordingly, when officers recounted claims that could neither be automatically rejected because they resonated with embedded understandings of deservingness nor straightforwardly accepted because they did not fit within codified categories, they were more likely to pay attention to the minute details of applicants' claims and, in turn, shy away from coding applicants only on the basis of generalized knowledge established about their group. This is consistent with cognitive research on intergroup relations that suggests that when faced with strong inconsistent evidence, people generally cease to code others on the basis of stereotypes (DiMaggio 1997).

This is not to say that stereotypes ceased to matter in situations characterized by discordance. On the contrary, officers' biases and personal preferences informed their initial interactions with applicants. Sociologists have long shown that decision makers do not evaluate pure "strangers" but rather raced, gendered, and otherwise categorizable strangers (Luft 2020). These attributed categorizations affect how decision makers interpret peoples' behaviors and stories and relate to them (Brubaker, Loveman, and Stamatov 2004).

At the same time, officers' encounters with ordinary discordance prompted them to cease thinking generically about applicants in terms of only their gender, race, or religion and to approach them instead as unique individuals with

a personal history, a name, and a face. When officers were attentive to the particularities of applicants' stories, they were also more cognizant of their own biases. As Jaya reflected, "The biggest challenge is humility, to be able say 'but I might be wrong' and then I think about all those cases which I referred but were granted by immigration judges."

Finally, engagement in reflexive and critical thought informed how officers defined their gatekeeping roles. Routine processing often led officers to define their job in terms of policing fraudulent applicants and safeguarding the integrity of the system. Conversely, when officers engaged in deliberative modes of thought, they described their ability to creatively apply law as central to their job. As Tom explained, "In these situations, I thought it was really our job to wrestle with a complex legal decision."

ORGANIZATIONAL PROCESSES

Finally, asylum officers' encounters with ordinary discordance influenced their evaluation through organizational procedures for processing deserving claims that fell outside the scope of codified law. Organizational procedures are constituted by the screening categories available within the organization and the organizational practices attached to the use of these categories. When asylum officers encountered deserving claims that did not align with codified law, they would make use of the screening category "membership in a particular social group." The "particular social group" category constitutes a built-in space of ambiguity: "categories where things get put that you do not know what to do with—the ubiquitous other" (Bowker and Star 2000, p. 15). Asylum officers perceived the "particular social group" category as a "loophole opportunity, your catchall which is what it was essentially meant to be—it does not fit into this, this, and this" and contrasted it to the well-established and intuitive meanings of "race," "nationality," "religion," and "political opinion."

Institutionalized spaces of ambiguity such as the "particular social group" category are not unique to asylum. Indeed, classificatory regimes depend on built-in spaces of ambiguity: they are essential both to the functioning of regimes and to their capacity to adapt to ever-changing environments (Bowker and Star 2000). Spaces of ambiguity allow for collaboration among distinct organizational actors with diverse and, at times, conflicting interests (Fujimura 1996; Star 2010; Edelman and Talesh 2011) and have been shown to amplify professionals' opportunities to identify management problems and propose new ideas to remedy those problems (Dobbin and Sutton 1998; Edelman, Fuller, and Mara-Drita 2001). However, the question of how frontline actors' engagement with ambiguous screening categories shapes their evaluation of applicants has not yet been investigated.

Asylum officers were often instructed by their supervisors to refrain from formulating new particular social groups that weren't formally recognized

by the agency. Riva recalled her surprise when she learned that headquarters had a list of approved particular social groups and if a group was not on that list, "you are screwed." Mark explained that "everyone is trained and begins to frame their claim by 'let's grant if we can grant on one of the other grounds before you get to [a new] social group.'" Time was also a factor. Writing a decision to grant asylum on the basis of an unrecognized particular social group often meant falling behind in the workload. Time pressure in the asylum office meant that those who fell behind risked reprimand. As Ellie put it, "Falling behind was very stressful . . . and there is no way to catch up."

A decision to use the category particular social group to grant asylum was thus a costly one reserved, in Jaya's words, for cases where "I really believe they are refugees, but the legal mechanisms don't exist to protect them." Some asylum officers described their decision to apply the "particular social group" category as an act of defiance and justified their deviations from standard procedures in moral terms. Kevin, for example, explained why he chose to apply the category of particular social group despite his supervisor's objection: "It is a horrendous [moral] shortcoming of the law . . . that criminal informants are not a [recognized] particular social group, that they are unprotected."

The process of applying the "particular social group" category shaped officers' evaluation by leading them to engage in what asylum officer Nora termed a "bottom-up" inductive analysis. Invoking a particular social group was a long and often legally challenging task that required officers to spend more time getting to know the details of applicants' claims. Asylum law requires officers to justify in writing how a given claim is related to a protected characteristic. For claims involving recognized harms, the analysis is straightforward, allowing officers to use a standard written format. The opposite is true for claims involving nonstandard harms and the "particular social group" categorization. Here, officers had to devote considerable time to justify the use of this category. As Melissa explained, "Whereas for the routine cases, you already have a paragraph written and all you have to do is change the date once a year, for the nonconforming [particular social group cases], you have to write the paragraph anew."

Because there is no settled definition of the "particular social group" category, the applicant's claim became the standard by which to define the category's meaning. This required officers to spend more time interviewing applicants and researching their country-of-origin conditions. When I asked officers to describe their interview process in such cases, Ben explained: "The interview would take longer . . . [and I] would take more interest in the case. I tried to look into country conditions more, news articles." Erin recalled having to do extensive research. Officers also noted how their mode of questioning changed: whereas in the case of standard fact patterns

officers approached applicants with a predefined idea of what information they needed and asked questions with the purpose of “filling in the blanks,” in the case of nonroutine “particular social group” cases, officers asked more open-ended questions. According to Bella, such nonconforming cases “just open everything wider, you are having a longer conversation, asking more questions, you want to understand.”

Officers remarked how the process of establishing a new particular social group encouraged them to focus less on applicants’ credibility and more on the meanings and limits of law. This was in contrast to how they described assessing claims with standard fact patterns, for which credibility determination was central. According to Tom, “A lot of people, they walk into the asylum office and you know that their claim is definitely documented in all the human rights reports . . . all they have to do to win this case is just be credible and my only job today is to make sure they are credible.”

Sociologists have extensively documented how, in the process of determining credibility, organizational workers “do not check their personal identities at the door” (Soss, Fording, and Schram et al. 2011, p. 234) but rather respond to clients’ social markers to decide how to allocate resources (Frohmann 1997; Paik 2011). This has been documented in the medical profession (Lara-Millán 2014; Chiarello 2015), welfare offices (Sandfort 2000; Portillo 2008), criminal justice system (Gerber 2001; Chan, Doran, and Marel 2010; Kohler-Hausmann 2013), and immigration and asylum (Coutin 2001; Pratt and Valverde 2002; Friedman 2010; McKinnon 2016). My data similarly suggest that the centering of the evaluation process on credibility prompted officers to draw directly on group stereotypes and, in many cases, increased their suspicion of applicants. As discussed above, this was often the case for applicants claiming persecution under China’s one-child policy. During the interview, officers would apply various credibility tests to verify whether their initial “hunch” as to the applicant’s credibility (or lack thereof) was correct. For this purpose, officers often relied on group stereotypes established within the office vis-à-vis Chinese applicants. Clara explained that everyone in the office “knew” that “in China . . . lying is not exactly what *we* would consider lying to be, and they . . . memorize these stories and then practice them.” This, in turn, increased her suspicion of any particular Chinese applicant. Other officers characterized Chinese applicants as farmers and factory workers and drew on class markers to distinguish among them.

Use of stereotypes to ascertain applicants’ credibility was not limited to Chinese nationals. Central Americans were considered “really innocent . . . they couldn’t pull off an elaborate story,” whereas Cameroonians, Haitians, and Liberians were depicted as “really good actors.” Lisa noted how she knew from applicants’ manner of dress and behavior whether they were genuine asylees or trafficked economic immigrants. Such perceptions were informed by officers’ personal histories as well as by knowledge acquired through

formal trainings and informal conversations with colleagues. Conversely, officers' engagement with the organizational practices attached to the use of the "particular social group" category led them to rely less directly on group stereotypes and be more attentive to applicants' unique circumstances and challenges.

There were patterned differences in how asylum officers applied novel configurations of the "particular social group" category. Officers with a law degree were more likely to do so than officers with no prior legal experience. This was due, in part, to the legal challenges involved in writing decisions based on particular social group. Moreover, officers trained in law saw critical engagement with case law as a definitive aspect of their job; in turn, encounters of ordinary discordance provided them with the opportunity to distinguish themselves from bureaucrats who do little more than "check boxes." For these officers, creative engagement with case law generated a sense of professional distinction and fulfillment. This was true regardless of whether novel applications of case law resulted in applicants being granted asylum.

DISCUSSION AND CONCLUSION

This article offers a framework for understanding how morality informs state officials' actions. Through the case of asylum status determinations, I have shown how, in the course of applying codified rules to real-life cases, there emerge situations wherein culturally embedded categorizations of deservingness for asylum and codified law do not align—situations of what I term "ordinary discordance." My analysis focuses on officers' attempts to reconcile and respond to such mismatches and examines the affective, cognitive, and organizational processes by which they do so. These processes encourage officers in these situations to become emotionally invested in the asylum determination process, to reflect on the meaning of established scripts, and to attend closely to the types of challenges faced by asylum seekers. My findings suggest that these moments of ordinary discordance prompt officers to critically engage with asylum law, thus creating opportunities for institutional activism and creativity at the heart of the state.

To date, studies that attempt to explain institutional activism focus primarily on actors' personal histories, experiences with constituencies, ideology, and career ambitions (Meyer 2003; Baumgartner and Mahoney 2005; Pettinicchio 2012). This article contributes to this literature by highlighting how opportunities for bureaucratic creativity can emerge in the relations between moral and codified categories. Specifically, it demonstrates that paying attention to the "fit" between categories of deservingness and codified law leads to a more nuanced understanding of how morality influences law in action.

In practice, the distinction I propose between relations of accordance and discordance is far from binary. It is more accurate to think of these terms as defining a continuum, with decision makers negotiating varying degrees of accordance and discordance. This, in turn, raises a host of empirical questions concerning when an encounter of accordance might turn into an encounter of discordance, how varying degrees of discordance inform decision makers' approach to applicants and the agency at large, and under what circumstances repeated encounters of ordinary discordance might generate opportunities for institutional change.

Practice theorists and scholars of gradual institutional change contend that the process of enacting rules carries with it the potential for change because "rules can never be precise enough to cover the complexities of all possible real-world situations"; when new developments confound rules, existing institutions may change to accommodate the new reality (Mahoney and Thelen 2010, p. 11). My analysis builds on and advances this literature by going beyond the basic premise that rule application involves creativity, transposition, or slippage (Feldman and Pentland 2003; Sewell 1992). I distinguish analytically between different forms of accordance and discordance to provide a terminology for the direction that this slippage may take and the processes through which it shapes frontline actors' engagement with law. Investigating how organizational actors contend with discordance over an extended time period has the potential to reveal when recurring instances of ordinary discordance might produce subtle shifts in norms and rules or when normally infrequent instances of extraordinary discordance might build to wholesale rejection of the existing institutional logic. Put simply, how decision makers make sense of the interrelations between legal and moral categories while applying the rules can tell us a lot about the nature and direction of institutional change.

The asylum officers I interviewed varied in how frequently they experienced discordance. Those who worked in offices that mandated a strict interpretation of asylum law tended to experience ordinary discordance more often than officers in settings that allowed a more inclusive interpretation of codified law. The time period during which officers worked was another source of variation. Officers who worked in the early 1990s reported experiencing less discordance than those who worked during the late 2000s. This may be due to what officers, at times, described as a hardening and narrowing of asylum law following the September 11 attacks and the transition of asylum jurisdiction from the DOJ to the DHS in 2013. In addition, officers noted that in the early 1990s, applicants with nonstandard claims were less likely to apply for asylum; the later rise in novel claims was due, in part, to advocacy work as well as changes in case law and domestic and international guidelines, which together led to increased recognition by officers and applicants of alternative applications of asylum law. Further research is needed

to identify how officials' social attributes, professional service missions, duration of employment,¹² and organizational norms inform encounters of accordance and discordance, as well as the processes through which they shape evaluation. This article helps to lay the conceptual basis for such studies.

A framework of evaluation centered on officials' engagement with ordinary discordance, in particular, advances understandings of the processes through which moral schemas inform law in action. Existing studies tend to depict rules as *either* resonating *or* failing to resonate with embedded moral schema. I have argued that, quite to the contrary, the relation between these dimensions is dynamic. Decision makers transition between situations in which fit is straightforward and situations in which fit is harder to achieve. A framework of evaluation that is attentive to these transitions, and the processes through which they inform evaluation, provides a more precise understanding of how moral categorizations inform agents' application of law and policy. It also advances current sociological debates concerning when decision makers are more or less likely to rely on bias when evaluating clients (Rissing and Castilla 2014). According to rational action and statistical theories of inequality, decision makers will attribute group-level characteristics to individuals primarily in scenarios characterized by limited information (Reskin and McBrier 2000; Petersen and Saporita 2004; Rissing and Castilla 2014). From this perspective, when decision makers have access to detailed relevant information, opportunities to discriminate on the basis of group-level characteristics are reduced. Conversely, preference-based theories predict that decision makers are less affected by information and more influenced by their biases. Decision makers will thus make biased decisions irrespective of detailed individual-level information (Ridgeway 1997; Correll and Benard 2006).

My analysis suggests that the answer to the question of when decision makers are more likely to rely on bias also depends on the fit between schemas of deservingness and codified law and how this, in turn, shapes decision makers' dispositions to available information. In the case of asylum, it is not just a question of how much case-specific information is available to officers but also how they interpret and use that information. My findings indicate that when officers encountered standard claims, they were more likely to approach applicants' information with suspicion and, consequently, to spend time verifying its

¹² Fifty percent of my respondents left the service within a year or two from the onset of their employment. Officers attributed the high turnover within the asylum office to the time pressures and intensity of the job rather than to a principled critique of any one rule or policy. At the same time, officers who decided to leave during their first couple of years tended to be more critical of the agency and its practices: they were skeptical as to officers' ability to justly evaluate applicants under the tightly imposed time pressures and often attested to the high professional price they had to pay for assisting deserving but formally ineligible applicants.

authenticity. Conversely, when officers encountered claims that did not conform to codified law, but did resonate with embedded categorizations of deservingness, case-specific information became a means to critically assess the legitimacy of the classificatory scheme. In short, how decision makers rely on biased beliefs and weigh available information is often determined by the changing dynamics between law's codified and moral categories.

This is the first study to document how asylum officials mobilize the moral schemas they find in their work environment and cultural surroundings to make actual asylum decisions. My analysis builds on and extends scholarship on immigrant deservingness by showing how asylum officers engage in moral problem solving: they strategically work to align applicants' claims with codified agency categories *and* schemas of deservingness for asylum, with significant implications for how they evaluate applicants. My data suggest that encounters of discordance did not necessarily lead to higher grant rates for applicants, at least not in the short term. Indeed, officers often failed to resolve discordance, leading them to develop cynicism and frustration toward the institution. At the same time, encounters of discordance heightened officers' emotional commitment to applicants, prompting them to become more attentive to the particularities of their life stories. This, in turn, led officers to rely less on stereotypes and to become more reflective about their own biases.

The framework I propose in this article is not limited to a given time period or political context, nor is it specific to asylum. Rather, it provides a basis by which to empirically compare evaluation processes across diverse institutional settings and political contexts. This requires examining how differences in organizational norms and practices may inform how agents contend with legal standards when these do not align with embedded definitions of deservingness. For example, asylum officers are charged with dispensing a good—specifically, the right of asylum. Would discordance operate in similar ways in organizational contexts in which agents are charged with negating a right? The narrative accounts of ethnographic studies on frontline decision-making suggest that state officials in regulatory roles encounter situations characterized by ordinary discordance and that these encounters inform their evaluation. Examples include a police officer who disobeys his supervisors when he decides not to file charges against a low-level drug dealer because of the latter's "hard work" (Maynard-Moody and Musheno 2003, pp. 100–101) or border patrol agents who invest time, money, and effort to provide "special treatment" for illegal immigrants they perceive to be deserving (Vega 2018). In these and other examples, frontline officials critically reflect on the limited character of formal agency rules and take steps to alleviate their experience of discordance. A comparison of asylum with other institutions that vary along these and other lines of difference could thus provide important insights into how differing "service missions" (Marrow 2009),

distinct organizational norms, and varying levels of administrative discretion influence how frontline officials contend with publicly codified rules in dynamic circumstances.

Changes in the ways agents experience and interpret their organization's "service mission" can also be a result of shifts in policy, and consequently this may affect their encounters with discordance. New rules and regulations introduced by the Trump administration, for example, provide an opportunity to examine how such changes in political context may inform how asylum officers contend with legal standards they do not see as aligning with embedded definitions of deservingness. Since taking office in January 2017, the Trump administration has imposed increasingly restrictive border control and asylum policies with the explicit intention of deterring asylum seekers from applying for and receiving protection. In some cases, the new regulations substantially changed the nature of asylum law, limiting eligibility for entire groups of applicants (National Immigration Justice Center 2020). According to a spokesman for the union representing federal asylum officers, officers across the country began calling in sick, requested transfers, retired earlier than planned, and quit in protest—all in an attempt to resist administering the Trump administration's recent policies (O'Toole 2019). These developments suggest a shift from the pre-Trump era; whereas previously asylum officers might have questioned the too narrow application of codified law, under and since Trump, more and more officers challenged the very moral legitimacy of that law.

This article outlines one analytical tool for better understanding how frontline actors respond to differing degrees of discordance between morality and law across changing political and organizational contexts. In so doing, it advances our understanding of how individual actors meaningfully negotiate the changing interface between morality and bureaucratic rules and the tensions between moral schemas and codified law that they must reconcile on a daily basis, with very real consequences for people's lives.

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