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Editorial Policy

OVERVIEW

The International Relations Journal at San Francisco State University strives to exhibit the diverse range of undergraduate and graduate research interests that flourish in our department.

Each semester, the Journal is offered as a course in which students participate as writers or editors in a peer review process, or as administrative staff members who assist authors and editors as well as guide the Journal through its production.

The goal of the course is to expose students to the peer review process, focusing on academic standards of argumentation and factual accuracy, citation formatting, and collaborative editing using Microsoft Word's "track changes" feature. More broadly, the Journal's executive editors aim to help students develop writing/editing skills applicable in other courses and promote a deeper understanding of the discipline of International Relations as a whole.

SUBMISSIONS & PROCESS

The Journal encourages all students pursuing a B.A. or M.A. in International Relations to submit completed works (incomplete papers and abstracts are not accepted) at the beginning of each semester. From these submissions, the Journal's executive editors assign students to positions on the writing and editorial boards as well as a number of administrative-level appointments.

The course curriculum includes a number of informational workshops and at least three rounds of structured editing and revision. All editing is anonymous and each submission is reviewed by three different editors.

The structured peer review is as follows: [1] a submission is first edited by an undergraduate or graduate "peer expert" who has conducted prior research on topics and/or regions relevant to the paper and can thus provide fact checking and citation

suggestions; [2] second round editing focuses on clarity and academic tone by paring the manuscript with an editor unfamiliar with the paper's subject; [3] finally, the paper is edited for proper citation formatting and technical aspects.

At the end of the semester, authors participating in this process are expected to submit a final manuscript for consideration by the Journal's executive editors and the faculty advisor.

PUBLICATION OF ARTICLES

Only submissions that have gone through the peer review process and meet the content and formatting requirements will be considered for publication. The Journal is published yearly.

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To my grandmother, Badria Al Masri,
whose legacy and grace I will carry with me forever

And to my nephew, Sebastian Rivera,

I love you Munchkin!

'Til we meet again.

Ayesha Alashkar

To my big sister, Seiyong Kim,

who shows me what it is to live life well;

And to the incredible SFSU faculty and staff

for their instruction, guidance, support, and encouragement...

I am forever grateful.

Shilla Kang

Author Biographies

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Alec Baud is a first-semester graduate student in the Philosophy Department at SF State. He got interested in political philosophy several years back, which led him to develop a broader interest in empirical evidence-based research and writing. Studying the relationship between children and agency in both philosophy and IR, and the diverse area of relational autonomy, brings novel ways of explaining the concept of childhood agency to the foreground in political discourse. He aspires to sway those who find it difficult to accept that children are just as important political actors as anyone else.

DONOVAN DEVINE

Donovan Devine (They/Them) is non-binary international relations major at San Francisco State University. Their involvement with the program as well as other school-sponsored clubs such as Everything Great About You (EGAY), a program that educates people on queer identity and inclusion as well as community building, promotes a strong interest in factors that relate to justice for marginalized groups across the board. Intersectionality of identities plays a key part in their interest in subjects and they enjoy researching topics relating to how multiple identities form different conditions of living for people globally.

JACINTA DUNCAN

Jacinta Duncan is a third-year student majoring in International Relations at San Francisco State University. With an interest in the global political economy, she is also pursuing a minor in economics with the hope to apply this to her concentration in Eastern and Southeast Asian politics. Alongside this, she is also passionate about exploring other topics and issues such as climate change, counterterrorism, and economic policies.

KATE LEONG

Kate Leong is a current graduate student at SFSU and a social worker in refugee services on the western side of Michigan. She thoroughly enjoys the pursuit of studies in international relations and has particular research interests in immigration policy and detention, worldwide asylum-seeking, and climate change policy. In her spare time, she enjoys yoga, dance, and all kinds of sports.

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Loredana Rovetti works full time and attends San Francisco State University, working towards obtaining a BA in International Relations with a Minor in Political science in December 2021. She chose her major as she was always interested in international relations between countries, and sought to understand what determines world leaders to start a war or what motivates them to keep the peace. She was born and raised in Romania, and when she turned 18 years old, immigrated to Italy. Loredana came to the US five years ago and currently lives and works in San Francisco.

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After receiving his Associate of Arts degree in Political Science from College of Marin in 2019, Tyler transferred to San Francisco State University in Spring 2020 to focus on the nuances of the globalization and the international institutional order. He graduated in Fall 2021 with a Bachelor of Arts in IR. Tyler dedicates his article to his baby son, Atlas, for giving him the renewed spirit of seeing an oftentimes complex, divisive world through the eyes of a thoughtful, imaginative child, for which he is profoundly humbled.

Agency When There Is None: Analyzing Agency and Children in IR

ALEC BAUD

ABSTRACT

There is a growing quantity of literature on childhood in International Relations (IR). Addressing how children are simultaneously within the legal jurisdiction of international law and are constantly thrown outside of the law when their cases do not match the preconceptions of what a child ought to be is of core concern within this paper. Through the notion of bare life conceptualized by Giorgio Agamben, I attempt to explain that children constitute a body of persons who are constantly excluded from the normative tensions under international law. By analyzing several concrete cases, I argue that we need to be wary of our presuppositions regarding children's agency and how the concept of bare life offers us an insight into the liminal space children occupy under international law.

INTRODUCTION

This paper will discuss the concept of childhood agency and how international political discourse frames the image of the agency. In doing so, I will look at several concrete cases revolving around the agency of children and at how the specious reasoning found in traditional liberal frameworks undermines children as political agents. I will also apply a similar analysis to two U.S. court cases revolving around refugee rights and agency. By arguing from analogy, I will show that the concept of agency results in a pernicious understanding of human beings when construed through the traditional liberal frameworks espoused by Western countries. Put differently, I will argue that we cannot ascribe to traditional liberal accounts of agency when attempting to underscore the importance of children in the construction of our political world. Children are legitimate political actors, and, likewise, so are refugees, asylum seekers, and many more marginalized groups of people. To treat children as legitimate political agents, we must renounce traditional liberal presuppositions espoused by many international organizations, treaties, and nation-states alike.

LITERATURE REVIEW

Children and Agency

Children are at the forefront of international concern. Scholars who work on the problematic depictions of childhood argue that the universal presuppositions founded by Western countries, such as the U.S., promote and reproduce what I will call the 'definitive perspective' on childhood. People who ascribe to the definitive perspective believe that children go through certain definitive stages while "developing" into an adult. Katrina Lee-Koo argues that the heart of the issue lies within international scholarship and presupposed universal attitudes towards the concept of childhood.¹

¹ Beier, "Discovering Childhood," 24.

Most scholarship uses the traditional liberal framework for understanding childhood. This leads scholars towards an individualist account of being a child, and subsequently, the lived experiences found within childhood.² Indeed, individualist accounts of childhood, and the curation of the self, are prevalent precisely due to traditional and some contemporary proponents of liberalism. The basic principle that a predominant portion of liberal accounts of the self share argues that our understanding of our experiences determines who we are.³ While some political philosophers working within the spirit of traditional liberalism acknowledge the importance of our communities, such as Joel Feinberg, they still maintain that our “self-directedness” (i.e., how we direct ourselves through our lives by guiding principles) determines the concept of the self.⁴ In other words, even though our communal practices partially influence us, we are who we are due to our self-choosing.

The universal presuppositions found within Western political traditions even seem to permeate international organizations aiming to alleviate the harm done to marginalized groups. For instance, the term ‘youth’ carries a slightly different connotation in Afghanistan and subsequently a different set of norms than in English-speaking countries. In Afghanistan, the term ‘youth’ is treated as more of a “mindset,” or a specific understanding of and caring for the future, rather than a demarcation of age.⁵ International organizations aiming to promote universal rights to education, primarily in youth, must be wary of their preconceptions regarding parts of the “youth movements.” So often is the case that we hear professional legal theorists claim their support for children but, at the same time, end up perpetuating certain “normal” instances of what a child ought to be. We even see a similar contradiction within the Convention on the Rights of the Child (C.R.C.) in an attempt to promote children’s voices. On the one hand, while the C.R.C. maintains that we ought to respect the wishes of children, it also continues to negotiate the theoretical and practical spaces for children on their behalf, ultimately relegating children to a quasi-supportive role.

The predominant issue regarding the discussion of the concept of childhood revolves around the presupposed universal validity of the said concept. Again, this point redirects us back to the extensive and perverse nature of traditional political liberalism and its international backing. The universal idea of childhood, within liberalism, is seen as “stable” and is regarded as an essential feature within children rather than a discursive construction through mediated socio-political arenas. Traditional liberalism often assumes that children go through definitive stages that serve as “natural” occurrences towards the transition into becoming adults. The problem is that childhood is an ever-altering phenomenon that is not the result of “objective” experiences; instead, childhood is the construction of the lived experiences of children themselves. Childhood only obtains its definitive characteristic due to adults’ top-down imposition of normative rules. Thus, applying an unmediated universalist approach to certain concepts engenders forms of systemic and latent marginalization, especially when dealing with the agency afforded (and not afforded) to specific classes of people.

The Concept of Bare Life

One theorist who works on the problem of the universal and individualist account of

2 Beier, “Discovering Childhood,” 25.

3 Mill, “On Liberty”; Rousseau, “The Social Contract”; Gaus et al., “Liberalism”.

4 Abrams, “Autonomy: Feminist Perspectives,” 808; Gaus et al., “Liberalism”.

5 U.S. Congress, “Afghan Youth Politics,” 2-3; Samuel Hall Consulting, “Afghanistan’s Future in Transition,” 55-56.

human rights is Giorgio Agamben. To distinguish Agamben's work, we must first look at what he responds to. Most interpretations of Agamben argue that his work seeks to collapse the historical distinction between sovereignty and biopower put forward by Foucault. He argues, contra Foucault, the inclusion of the exclusion—which is his key concept of bare life—is the “original nucleus of sovereign power.”⁶

To offer a terse comparison, Foucault argues that what is characteristic of modernity (i.e., what is peculiar to modernity as an epoch) is that the application of biopower comes into the foreground in the public and private spheres. In short, biopower is concerned with producing and reproducing particular kinds of life. According to Foucault, societies that existed before the era of modernity were under the operation of sovereign power, which was concerned with deciding who lived and died.⁷ Indeed, Foucault himself asserts that the “sovereign exercised his right of life only by exercising his right to kill.”⁸ What defined sovereign power is precisely what the sovereign held the capacity to choose to do; in this sense, choosing who got to die. Foucault argues that biopower is concerned with the “bodies” of people and what those bodies are, rather than just the land on which they inhabit.⁹ The expansion of biopower and the concern for regulating specific kinds of life is Foucault's crucial characteristic of modernity. The proliferation of sciences concerning the human body (e.g., psychology, medicine, sociology, etc.) makes biopower a vital tool for discussing the deceptive features of modernity.

The notion of bare life plays a pivotal role in explaining how children are objectified. I will argue, albeit implicitly through the several concrete cases I discuss later, that the reduction to someone's biology (what is ultimately bare life) is not just a simple aspect of objectification as dehumanization. Rather, bare life constitutes a distinct phenomenon where someone is reduced to their biology. A person who is reduced to bare life becomes an exception under the law—that is, their very life, as the title *Homo Sacer* points to, may be killed but not sacrificed. Agamben notes that this very exception has become the norm in modern society. Thus, the concept of bare life serves as a theoretical tool for analyzing how the exception of children under international law has become the juridical norm.

The justification under international law regarding children's rights is that children are non-adults, so their exception forms the norm for how we ought to treat children. However, I think contemporary and historical accounts of childhood agency are insufficiently conceptualized and perpetuate the pernicious notion of an ideal child who grows under definitive periods. Take, for example, Immanuel Kant, who theorized the concept of human rights within the ability for the “self-legislation” of rational persons, or in other words, the ability for adults to utilize reason.¹⁰ For Kant, our autonomy emerges from the ability to reason authentically—that is, to generate our thoughts for ourselves and strive to maintain our intellectual integrity. From this conceptualization of human rights, Kant explains children as potential subjects for reason and objects of dignity for their ability to develop into genuinely rational beings.¹¹ Of course, the

6 Agamben, “Homo Sacer,” 6; Gundogdu, “Potentialities of human rights,” 6.

7 Cisney and Morar, “Foucault and Beyond,” 2.

8 Foucault, “The history of Sexuality,” 136.

9 Cisney and Morar, “Foucault and Beyond,” 3-4.

10 Wall, “Human Rights in Light of Childhood,” 530.

11 Wall, “Human Rights in Light of Childhood,” 531-532; Lavaque-Manty, “Kant's Children,” 380-381.

literature on childhood discussed previously in this paper sees this understanding of children as problematic; I am more concerned with Kant's theory of objectification.

For Kant, objectification means to treat someone as a thing or, more precisely, to reduce a person to a thing. Therefore, it is always morally blameworthy to facilitate a rational person to a mere thing because it means you are interpreting someone as a means to an end rather than a person who is an end in and of themselves. What is distinct about Agamben's concept of bare life, and what is not at play in Kant's theory of objectification, is that the notion of bare life allows for the conceptualization of normative tensions within and under the law—that is, bare life offers a non-reductionist account of objectification. Thus, it is essential to stress the advocacy of bare life, qua theoretical machinery, to understand better how children are seen as an inclusive exclusion under international law.

The brief comparison of Agamben, Foucault, and Kant clarifies why I intend to use Agamben's concept of the inclusive exclusion of bare life as a specific critique of the cases I will analyze. Importantly, Agamben argues that the biopolitical has always been infused with sovereignty. For Agamben, what is noteworthy regarding modernity is the feature of bare life as the center of all politics. He further argues that modern democracy may be characterized by the fact that it “wants to put the freedom and happiness of men into play in the very place—'bare life'—that marked their subjection.¹² He wants us to realize that modernity is consistently marked by its necessity to include what it has excluded, and what it has subsequently used to further the marginalization of certain groups at the heart of its political projects. I argue that this specific characteristic of modernity is at play in the configuration of childhood under the definitive perspective, which finds its roots within the universalism of Western traditions.

CONCRETE CASES

Thus far, I have discussed the theoretical aspect of childhood (and the subsequent work on de-westernizing childhood's individualistic and universal approaches). While it is imperative to establish a critical anti-hegemonic discourse aiming to abolish our current systems of understanding the concept of childhood, it is also essential to pay attention to material instances that perpetuate the problems with which we are struggling. Put differently, we cannot look to mere theory to solve the current issues around depictions of childhood. Instead, we should look at concrete cases and compare the theoretical work with these material moments put forward by authors such as Lee-Koo. I will discuss all three cases from the C.R.C. and the Committee involved in the judicial and administrative overview of cases revolving around children's rights. All three cases revolve around the vital characteristic of modernity—it's centering on bare life as the foundation for the life of the human subject.

Case 1: R.K. v. Spain.

In this case, the claimant (now referred to as the grievant) originated from Guinea and was fleeing by boat to a safer country due to the murder of his parents. The safer country in question was Spain (referred to as the State party). The grievant argued that the State failed to recognize the grievant's right to Article 3 and explicitly highlighted paragraph 2 of the Convention, which states that the “States Parties undertake to

¹² Agamben, “Homo Sacer,” 8-9. Emphasis added.

ensure the child such protection and care as is necessary for his or her well-being.”¹³

The grievant argued that, during his attempt to flee from the reasonable fear of harm, he was placed in a holding cell specifically for adults. Even though the grievant claimed that he was a minor, the Spanish authorities in Almeria essentially dismissed his claim due to a lack of guaranteed “biometric data” for clarification. Notice how the authorities, instead of helping the grievant, who claimed to be minor, immediately sent him to a holding facility for adults because they did not deem his testimony nor certificate valid. The troubling part is how Spanish authorities confirmed the grievant’s age. The State party argued that the grievant’s claim was inadmissible because his “bone age” did not match his appearance. This amounted to the State party’s denial of entry to the grievant, which was used as their concluding argument.

If we look at this case, we see an example of authorities reducing human beings to their biology. By lessening the grievant to his biometric data, the authorities both traumatized and emotionally deprived the grievant in question. Instead of listening and speaking with the minor, who claimed to be a minor, the Spanish authorities refused to hear what the grievant had to say because of his appearance and bone age. The other cases in this paper also involve the State party using this method of bone age to determine the validity of the grievant(s) claim. Notably, bone age is distinct from chronological age, and authorities should not equate it with the same method for demarcating age. Different people represent different levels of growth, especially those who experience hardships, such as the grievant in this case. To deny a minor’s right to be heard because the biometric data and the appearance of the grievant did not match is wrong (which we should not consider an unequivocal answer in the first place). Indeed, the independent Committee presiding over this case concurred with the grievant’s claim that the State party violated his right to be heard. The concluding remarks within the findings of the Committee also reaffirmed that “States should refrain from using medical methods based on, inter alia, bone, and dental exam analysis, which could be inaccurate, with wide margins of error, and could also be traumatic and lead to unnecessary legal processes.”¹⁴

In sum, the State party failed to recognize the grievant as an autonomous person with certain rights. Significantly, however, the State party also reduced the grievant to his bare life. The reduction of the grievant to his mere biology was applied as the rationale for the State’s actions. It is vital to notice how the concept of bare life is at play in cases such as, when one is reduced to just their biological life, they are not just dehumanized, because that would require the violators to consider one to be human in the first place; instead, being reduced to bare life is a distinct account of an impermissible moral violation.

Case 2: D.D. v. Spain.

The grievant, in this case, alleged that the State party violated his rights under Article 20 and Article 37 of the Convention. The grievant’s detailing the facts followed along the lines of being accused by the State party of impersonating someone else. The author notes how, when attempting to cross into the Spanish city of Malilla via Morocco, the Moroccan authorities beat and maimed the grievant, which resulted in the loss of his front teeth. Furthermore, the grievant claims that the State party attempted to deport him back to where he came from, known as *refoulement*, which would

13 R.K. v. Spain CRC/C/82/D/27/2017 11.

14 R.K. v. Spain CRC/C/82/D/27/2017 9-10.

have caused him immediate and irreparable harm. According to the State party, the grievant's complaint was "inadmissible rationae materiae" because the right to asylum is not afforded under the Convention for the Rights of the Child. The detail that the State party fails to acknowledge is that if the State party did attempt to repatriate the author, then the State party would have willingly and knowingly subjected the grievant to cruel punishment from Moroccan authorities. The author argues that the State cannot unilaterally exclude certain minors from the protection and assistance of local authorities because of some arbitrary zone crossing. The main argument put forward by the grievant is that the State failed to protect an unaccompanied minor solely because the State alleged that they claimed to be a different person at some prior point. The Committee reviewing said case concluded that the State had no right to immediately dispel the author's rights simply because they did not believe the provided authentic birth certificate was valid. According to the Committee, children ought to be respected, and if they provide documentation, their documents must be treated as valid until proven otherwise with valid concerns. The Committee wanted to highlight the main point that a state cannot send unaccompanied minors back to where they came from because of some intuitive belief that what they are claiming is false.

This case also deals with the normative issues surrounding Article 3 within the Convention and the right for children to be heard. The problem is that certain State parties interpret this specific Article to mean that they can query what the child is saying at all times. However, the right to be heard does not mean that the State has the right to interrogate. State parties presuppose that their authoritative and sovereign power grants them the innate ability to reduce all claims children have to the mere evocation of biases. State parties fail to acknowledge that children having the right to be heard means that said children actively construct the world around them and have the capacity to provide substantive critiques, just as any adult may be able to do.

Case 3: A.E.A. v. Spain.

The grievant, who is the parent of A.E.A., argued that the State party violated the right to an education for their child due to the coupling of prolonged responses and a complete disregard from the court system within the State. According to the author, the State party exiled their son, A.E.A., from the education system due to their son being born in Melilla and being of Moroccan origin. In response, the State party argued that if the grievant had exhausted their available domestic resources, particularly the ability to appeal the decision by Spanish courts barring A.E.A. from entering the education system, this whole procedural process could have been avoided. The grievant maintains that the State party violated Article 3 of the Convention for not considering the child's best interest and Article 28 for failing to recognize the importance of education and the right to encourage the child's development.

The Committee confirmed that the grievant had substantiated their claims regarding the violations of Article 3 and Article 28 of the Convention carried out by the State party. The State party did not adequately account for the right to an education and unnecessarily extended the burdensome legal process to secure their claim of admissibility. It is essential to note the already onerous bureaucratic process that many children born outside the mainland of certain States must go through. The case revolves around the right to an education for A.E.A. provides a substantive outlook on the dismal situation of people of foreign descent [within Spain]. While on paper, many States argue that they seek to provide a universal right to education regardless of social status, religion, gender, or race. In reality, these "universal" rules only apply to a select few.

Issues revolving around agency occur within the confines of the U.S. legal systems as well. Briefly exploring critical cases brought to the Court of Appeals Seventh Circuit may illuminate further readings of Agamben's concept of bare life at play. The first case I want to discuss is *Exodus Refugee Immigr., Inc. v. Pence* (2016). This case revolves around the former governor of Indiana arguing that the State should have no obligation to allocate federal funds to private organizations that aim at helping refugees seek social and economic stability. The argument that Pence put forward amounted to a claim based on zero evidence and was not related to the reality of the situation to any extent. Pence's argument constituted a form of discrimination based on nationality and was used primarily as dog-whistle rhetoric to incite fear within the public towards refugees entering the State. Pence defended his refusal to aid organizations such as Exodus in the supplied brief by reaffirming "the State's compelling interest in protecting its residents from the well-documented threat of terrorists posing as refugees to gain entry into Western countries."¹⁵ Circuit Judge Posner delivered the court's opinion and argued that Pence's description of refugees coming from Syria was "nightmare speculation" and did not warrant any defense. While Pence's argument regarding refugees and the federal mandate that states have when dealing with refugee rights is utterly erroneous, it continues what Agamben notes about bare life. The case presented shows how politicians and those who hold sovereign positions of power propagate certain concepts of bodies. In this case, Pence argued that the bodies of refugees are a threat to public safety. While Pence exercises his insidious form of sovereign power, the [utilized] biopower—the reduction of the lives of refugees to mere biological threats—is a tactic that Agamben highlights as pivotal in a modern democracy.

East Bay Sanctuary Covenant v. Biden (2021) is a second case worth consideration. This court case revolved around the significant contributions that the Refugee Act of 1980 had on the status of asylees (persons who obtained refugee status). Notably, E. Bay Sanctuary Covenant, as well as other organizations aiding in the gaining of refugee status, argued that the "The Rule" demarcated by Department of Justice (D.O.J.) and Department of Homeland Security (D.H.S.) contradicts the embedded principle of asylum eligibility. The Rule in question, issued with the proclamation of former president Trump, made it illegal for any migrant to be offered asylum eligibility if they did not cross through a designated port of entry. Circuit Judge Paez of the Ninth Circuit argued that people seeking asylum do not have the privilege of "deciding" where they would like to go. The court's opinion held that the Rule issued by the D.O.J. and D.H.S. in 2018, combined with the proclamation provided by Trump, violated the Refugee Act of 1980 and the principles within the Immigration and Nationality Act (I.N.A.). While the court's opinion established that the Rule and proclamation were unlawful by precedent, the normative constraints placed upon people seeking asylum were an underlying factor.

CONCLUSION

Agency is a complex concept and requires a context-based analysis and conceptualization that is non-universal in the method. Carving out space for something akin to a pluri-versal practice, one that constantly engages with marginalized and excluded groups instead of engaging for, is paramount for transforming our current systems of thought. While my current paper focuses on some of the material instances that explicate key theoretical work put forward by previous political philosophers and

¹⁵ *Exodus Refugee Immigr., Inc. v. Pence* (2016) 165 F.Supp.3d 718

scholars in IR, there is still much work to be done in terms of explaining background presuppositions and constraints within the more significant issue of agency. I attempted to restrict myself when it came to giving a complete answer to specific normative questions such as: Should we impose some universal standard when discussing the rights of children and their respective education? Which values ought we to favor when accounting for the autonomy of children? How do we fully acknowledge children as autonomous and dependent upon one another in the community? Why might granting fully-fledged political statuses to children be beneficial to overall communities and not just children? Where can we find examples of treating children as autonomous benefiting the overall political environment? And how does relational autonomy help tackle the concrete issues of children being left behind and objectified simultaneously? These questions, and more, represent important philosophical contributions that are beyond the scope of this research paper. I want to emphasize, however, that these questions include a specific theme that centers around the conflation of children and socio-political autonomy granted to adults. A question that might encompass the overall structure of the previous queries might be, “How might children be considered fully autonomous in the strictest sense, or what are the next steps towards fostering a political community that emphasizes the opinions and values of children?” Building such a community will require real work and is not too far-fetched when we think more about the potential benefits of such a community. This is especially true considering the fact that some bills and resolutions are being deliberated upon (e.g., Oregon’s SJR 25) within the U.S. that seem to stress the valuable contribution children have to offer to political discourse. Nevertheless, exploring the effects of such a community will lead to further philosophical investigations concerning the expansive field of relational autonomy.

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Justice Denied: International Politics of Reparations in Haiti

DONOVAN DEVINE

ABSTRACT

This article explores what factors determine whether or not nations will receive reparations for atrocities committed by external actors. There seems to be a specific combination of ethical perspectives, economic incentives, and the threat of political stigma that promote or discourage entities from making concessions towards groups they have harmed. Adding elements of intent or accident, as well as a circumstance for their presence also seems to play into why some entities feel encouraged to make concessions while others deny wrongdoing and responsibility. As the world at large grows even more globalized, answering these questions in a timely manner is exceedingly important. This article aims to amplify one specific case where cholera spread by UN peacekeeping forces caused a mass outbreak that rendered Haiti's political, economic, and public health conditions ruinous. The UN, under heavy pressures from Haiti and external players, eventually conceded reparations. Whether they were sufficient enough to undo the destruction caused remains to be decided.

INTRODUCTION

“Europe is literally the creation of the Third World. The wealth which smothers her is that which was stolen from underdeveloped peoples.”¹ A global trend that has come into greater prominence in recent years is that of abuses from previously colonial occupiers repeating themselves in the modern-day.² Long-term exploitation of the country and continued economic turmoil has led the state into what is essentially a ruin, with no reparations in sight.

Given that most nations are reluctant to even admit fault, this paper explores under what conditions do perpetrators accept paying reparations to countries that are victims of injustice? This paper will explore the factors that enable countries to make effective arguments towards gaining reparations, as well as the factors that enhance the legitimacy of these claims. This paper will analyze the Haitian Cholera case in 2011 to understand when reparations were deemed necessary, analyzing limitations in agreements reached with international organizations and reparative actions that have failed to actually reach victims. My argument is that perpetrators will be reluctant to address the atrocities of their imperialistic pasts when it comes to the question of reparations but will be willing to concede in comparatively smaller cases involving the actions of international organizations or private companies where said actions could result in damaged profits or reputation in the near future.

1. Frantz Fanon, *The Wretched of the Earth*, Francois Maspero, 1961

2. Bernd Debusmann Jr., *Why are so many Haitians at the US-Mexico Border?* BBC News Washington, a 2021

LITERATURE REVIEW

It is important to outline the different types of justice as it helps us gain a better understanding of reparations and their potential for application. These varying forms of justice may not have the same effects based on their implementation. Additionally, different forms of justice can be perceived differently depending on their categorization. Distributive justice is a form of reparation that gives money or an equivalent back to the wronged group.³ This iteration of justice can aid the situations of those who have potentially been economically stunted due to the actions of another party. They are also used in place of human life as a form of compensation, but this can come into question with placing a monetary value on human life. The next form is procedural justice, whereby laws are changed in order to better maintain equality between parties that may not have been previously maintained.⁴ Procedural justice causes shifts to take place in order to guarantee or better the treatment of a disadvantaged diaspora living in the nation who suffered at the hands of the system. The final form is retributive justice when some form of accountability is implemented in order to create equality in expectations of parties participating in a nation or corporation.⁵ This form can be used to address a long-standing inequality in the treatment of specific people groups in order to better their condition as a whole while holding the culpable party accountable for their actions taken against the victimized party.

It is key to view consequences or conditions surrounding reparations through three common lenses: ethical, economic, and political viewpoints from other researchers. These outside perspectives can better help readers understand the specific elements of reparations and the effects of their implementation.

Ethically, there is a prominent condition relating to the clear racial divide in nations and parties seeking reparations globally. Generally speaking, communities of color and individual groups that have previously been colonially occupied are at a higher chance of seeking reparations for actions carried out in the past. Berthoud mentions in their work that there are racial motivations for keeping certain countries and people disadvantaged as old-time colonial attitudes towards race still persist in the minds of many aggressor nations.⁶ This would be an affirmation towards giving reparations as it would allow predominantly white and western aggressor nations the chance to make amends for the consistent disenfranchisement of Black and Brown people across the afflicted area. It would likely remain an impediment in the eyes of aggressor nations however as they would likely have to admit to wrongdoing and continued racism amongst their elite cadre.

From an economic perspective, there is an analysis of the competitive nature nations and parties are put into when presenting their cases for reparations to potential donor nations. Malagon's and Brett's interpretation of a "top-down" approach to neoliberal peace-building better characterizes the situation at hand around the globe as it is often the Western nations in international cooperatives like the UN, that hold the power and funding necessary to carry out such payments. This creates a sort of competitive nature

3. Michelle Maiese. "Types of Justice." *Beyond Intractability*. Eds. Guy Burgess and Heidi Burgess. Conflict Information Consortium, University of Colorado, Boulder. Posted: July 2003 <<http://www.beyondintractability.org/essay/types-of-justice>>.

4. Ibid

5. Ibid

6. Patricia Barthaud. "Counter-Narratives: Haitians in Economic Transition" (Thesis and Dissertation: ProQuest Dissertations Publishing) 2020

amongst potential recipient nations as their interests become aligned with those of the donor nations in order to secure any form of funding, creating a cycle that eventually leads to the “more powerful” nation’s interests being held in higher regard.⁷ This could be qualified as a downside in the eyes of recipient nations as having to be competitive with other nations in regard to accessing reparations would only place continued stress on a system that is already overwhelmed with domestic difficulties. It could potentially be an upside for aggressor states as they would be less demanded upon to fulfill reparations when a recipient entity cannot be decided upon.

Politically, there are motivations to cover up the deeds done previously, in order to skirt the issue of accountability for actions committed in the past even if they have effects in the present. The trend that seems to come out of aggressor nations is that of wishing to put the past behind in order to move ahead with the future.⁸ This is what further holds up the notion of maintaining the interests of the global leaders in that none of the aggressor nations are able to reconcile with what they have done and none of the nations that wish to rebuild, are permitted to forget what has happened to them.⁹ This fits into the argument for reparations in that creating an environment where nations that commit atrocities are simply allowed to let them go as “they were so far in the past”, allows for abuses to the system aggressor nations claim to uphold. This, in turn, makes it exceedingly difficult for nations that are in need of assistance to gain much traction in receiving said aid on the international stage.

THE CHOLERA CASE (2011-PRESENT)

The case study that will be reviewed in this section will be a case from the year 2011 where a grievance was committed in Haiti that served as a cause for reparations. The reparations were met and fulfilled by the UN, after causing Haitians much harm. United Nations employees sent to Haiti unintentionally spread cholera in an already vulnerable area subsequently leading to an outbreak.¹⁰ The epidemic began at a camp containing UN coalition members that were a part of the United Nations peacekeeping mission present in Haiti to maintain political order following a contested election that other countries in the Americas feared might spark instability in the region, as well as to assist with post-earthquake recovery efforts.¹¹ Pathogens likely entered the Artibonite river, a large source of drinking water in the country, through a tributary located next to the camp. This was caused due to informal waste treatment systems being implemented in the hastily constructed camp to house the soldiers.¹² This spread the disease first to Mirebalais, the settlement located near the camp, then the infection was carried further down the river system to the town of Saint-Marc, entering the drinking water there.¹³ These two locations hosted the greatest number of victims of the disaster and were the main locations investigated by the research inquiry

7. Roddy Brett. Lina Malagon. “Overcoming the Original Sin of the “Original Condition”: How Reparations May Contribute to Emancipatory Peacebuilding” Springer Netherlands 2013

8. Clarence Munford. “Race and Reparations: A Black Perspective for the 21st Century” Africa World Press 1996

9. Martha Minow. “Between Vengeance and Forgiveness: Facing History After Genocide and Mass Violence” Beacon Press 1998

10. Ralph R. Frerichs., Paul S. Keim, Robert Barraix, and Renaud Piarroux. “Nepalese origin of cholera epidemic in Haiti.” *Clinical Microbiology and Infection* 18, no. 6 (2012): E158-E163.

11. Jorge Heine, and Andrew Stuart Thompson, eds. *Fixing Haiti: MINUSTAH and beyond*. United Nations University Press, 2011.

12. Fabini D. Orata, Paul S. Keim, and Yan Boucher. “The 2010 cholera outbreak in Haiti: how science solved a controversy.” *PLoS pathogens* 10, no. 4 (2014): e1003967.

13. *Ibid*

which was put out following the tragedy. The victims of the virus were tested and resulted in the discovery that the strain was a variant specifically endemic to North India and Nepal.¹⁴ This further solidified the connections made to the origin being that of the Nepalese UN soldiers present in the camp at the time. Further evidence was provided through external investigation and first-hand accounts of wastewater management in the area being particularly poor, which likely contributed to the contamination of Haitian civilians.¹⁵

The United Nations initially rejected all accountability or acceptance of guilt for the incident at large despite mounting evidence that the origin was clearly the United Nations camp that housed the infected soldiers.¹⁶ This initial denial of fault prompted two Haitian advocacy groups, Bureau des Avocats Internationaux and The Institute for Justice and Democracy in Haiti, in addition to the law firm of Kurzban, Kurzban, Weigner, Tetzeli, & Pratt to file a lawsuit against an American court advocating for Haitians and Haitian Americans affected by the outbreak, as well as and the recognition and responsibility of the outbreak to be accepted by the United Nations.¹⁷ With this major lawsuit finding its way into an external court, as well as mounting pressure from around 7,000 individuals, who filed suits and being responsible for the largest cholera outbreak the nation had seen in its entire history, the UN found itself backed into a corner, despite avoiding responsibility for multiple years after the event initially occurred.

Through this paper we will follow an analysis of factors in the following order after the establishment of background context: Analyzing what role the perpetrator played on the international stage before committing the atrocity and how it might affect their concession of reparations as well as other world examples that may relate to Haiti's condition. Then we will move to analyze the extent of the damage caused by the disaster and how it affected the concession of reparations as well as how other examples received reparations depending on their global condition. Next, we will look into the political motivations of aggressing parties and how they affect reparations being fulfilled as well as, again, analyzing other world experiences for context. Finally, I will give my concluding thoughts on the examples and cases as a whole, rounding out the analysis of the Haitian case as opposed to outside examples.

The ultimate focus of this article will be to analyze through the three factors of the international role, the extent of damage, and political motivation, why Haiti did end up receiving reparations from the UN after their role in creating the Haitian cholera epidemic. We will in addition analyze how these factors may be determining factors in other cases as well as how they may apply to other examples throughout the world. It is important to analyze such factors as doing so will hopefully create a better understanding of the conditions that allow for reparations to be fulfilled and thus potentially have them implemented more frequently.

The Perpetrator

The first factor we will be analyzing is what role the status of the offending party is when determining whether or not an entity will receive reparations after an atrocity is

14. Ibid

15. Ibid

16. Ira Kurzban, Beatrice Lindstrom, and Shannon Jonsson. "UN Accountability for Haiti's cholera epidemic." *American Journal of International Law* 108 (2014): 17-21.

17. Ibid

committed. This is important as it potentially determines the course of whether or not an entity will receive reparations.¹⁸ In the context of the case we are studying, there is a likely chance that companies or international organizations will be more likely to concede to reparations claims.

Table 1: Major Reparations Programs¹⁹
Panel A: United States

Program	Year(s)	Payer	Recipient	Payment	Total Cost	Cause
Indian Claims	1946	U.S.	Indian tribes	Various	~\$800 million	Land taken by force or deportation
Japanese Internment	1988	U.S.	Internees	\$20,000	~\$1.65 billion	Internment of Japanese Americans during World War 2
Radiation Exposure	1990	U.S.	People exposed to radiation	\$50,000-\$100,000	~\$117 million	Exposure to radiation from nuclear tests, or from mining
Hawaiian Annexation	1993	U.S.	Descendants of native Hawaiian groups	(apology)	\$0	Loss of lands after annexation in 1879
Rosewood	1994	Florida	Survivors, descendants	\$375-\$150,000	\$2.1 million	Murder and destruction of a black town in 1923
Syphilis Experiments	1997	U.S.	Victims of experiments	\$5,000-\$37,500	~\$9 million	Denied treatment for syphilis without telling victims, 1932-1972
Mexican American Land Titles	1997-1998	U.S.	Descendants of property owners	(investigation of claims)	\$0	Failure to recognize Mexican or Spanish land titles under 1848 treaty

The previous table outlines major reparations projects proposed to the American government in response to atrocities committed by America over the course of history. As the table shows, many claims with high price points have been filed under real tragedies that deserve some form of recourse. However, many of these initiatives are met with a fraction of what is asked or needed by the groups that petition them, and some are even not considered or paid out.

This backs up my claim that nations historically pay less to none of what is asked by afflicted groups as they have either a history of denying responsibility or accountability for their past actions or have an entire population to convince reparations is a worthwhile expenditure to pursue. Coates' literature furthers this claim with the

18. Brandon Hamber. "Repairing the irreparable: Dealing with the double-binds of making reparations for crimes of the past." *Ethnicity & Health* 5, no. 3-4 (2000): 215-226.

19. Eric A. Posner, and Adrian Vermeule. "Reparations for slavery and other historical injustices." *Colum. L. Rev.* 103 (2003): 689.

assertion that despite mountains of evidence being present in the face of a committed offense, some will still need “convincing” in order to be willing to pay to reconcile with the actions of those from the past.²⁰

“Whereas the traditional focus of the international regime of state responsibility has been on bilateral relations (claimant/victim vs. respondent/tortfeasor), the practice of the UNCC’s F4 Panel introduced an important new multilateral dimension; viz., legal accountability of all states involved for the safeguarding of common concerns to protect and conserve the Earth’s natural heritage, irrespective of its territorial location.”²¹

The above quote generally summarizes one of the many positive attributes of seeking reparations through international actors, as it supports the personal claim that international actors other than nations are generally able to better handle the bureaucracy of reparations applications, allowing for claims to be properly considered and dealt with. This contrasts with the data on contesting reparations through states and international organizations, like the UN, which has been key figures in expanding accountability for actions committed in the past. While not equitable in standing to organizations like the UN, commissions like Amnesty International in fact, (which is an NGO), have been influential in deciding national policy on bills relating to reparations and their effects on citizens. A good example would be Amnesty International’s review of the Kenyan Truth, Justice, and Reconciliation Bill passed in 2008. The review and subsequent development of concern led to the bill and its actions being held under much more strict supervision and scrutiny after Amnesty International reviewed it and expressed concerns over the culture of impunity the bill could potentially cause if not monitored properly.²²

In the case of Haiti, Piarroux’s literature begins by outlining a strong correlation of just how quickly the event began to unfold. Figure 2 lays out a clear timeline which presents the fact that the first members of the Nepalese portion of MINUSTAH were present in Haiti by October 9th, the first reported case of cholera was experienced on the 14th and the first death attributed to the effects of cholera were reported on the 17th.²³ The remainder of the graph details the sudden and sharp increase of cases in Haiti through the following month, indicating that if contact tracing and stricter adherence to international health guidelines were present amongst MINUSTAH operatives, then the subsequent outbreak could have been preventable. The UN did not react immediately to the unfolding tragedy.

There were conflicting modes in which information passed from one part of the organization to the other, as well as an ever-evolving agreement between what should be the UN’s issue and what should be the Haitian government’s issue. As a result, the UN essentially became unable to act in any swift and decisive manner in regard to solving the issue which therefore prolonged it and increased the potential blame the entity could share in creating another disaster for the country to deal with.

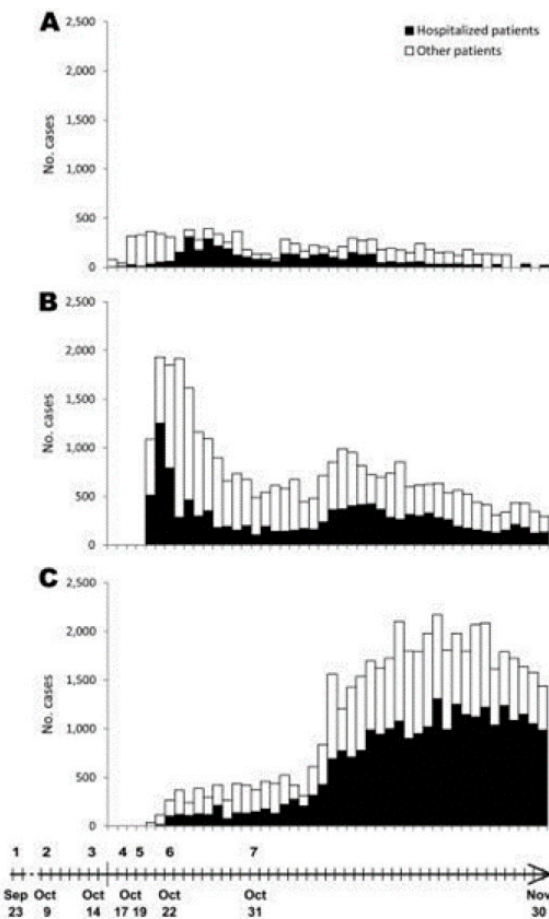
20. Ta-Nehisi Coates. *The case for reparations*. Columbia University Press, 2015.

21. Cymie Payne, and Peter Sand, eds. *Gulf War reparations and the UN compensation commission: environmental liability*. Oxford University Press, 2011.

22. Truth, Justice, and Reconciliation Commission. “Concerns About the TJRC Bill (Amnesty International).” (2008).

23. Renaud Piarroux, Robert Barrais, Benoît Faucher, Rachel Haus, Martine Piarroux, Jean Gaudart, Roc Magloire, and Didier Raoult. “Understanding the cholera epidemic, Haiti.” *Emerging infectious diseases* 17, no. 7 (2011): 1161.

Figure 2



As a result, the UN purposefully sought to distance itself from the issue and create a narrative whereby the nation’s infrastructure was the cause of blame, and that the peacekeeping mission’s range of control did not extend to solving that issue. Pillinger et al. detail that the ultimate strategy of the UN was to use the powers of legal immunity in its operations in Haiti to dodge all accountability for the catastrophe it helped spawn, despite all mounting evidence pointing to its falter, as well as dissatisfaction from the global community at large, however, this strategy was unsuccessful.²⁴ This potentially points to the reasoning as to why the UN ultimately did pay out reparations in the end.

The issue is the actual distribution and reaching effects of the reparative action taken by the UN, in that the resources distributed may not have reached the intended recipients. There is no denying that the actual time taken for the UN to perform some form of re-compensation was continuously delayed on purpose in order to avoid potentially being held accountable.

There also comes the less savory truth of IOs being less accountable to any form of people backing them as they essentially govern themselves. This means that occasionally, foreign intervention from an international organization may lead to

24. Mara Pillinger, Ian Hurd, and Michael N. Barnett. “How to get away with cholera: The UN, Haiti, and international law.” *Perspectives on politics* 14, no. 1 (2016): 70-86.

abuses from the organization going unchecked by any governing entity and that remain unaccounted for as the organization may wish to maintain good international standing.

In the case of MINUSTAH's intervention in Haiti, there was a coinciding rise in reports of sexual abuse cases coming from locals who pointed the finger almost entirely at peacekeeping officials deployed by the UN. Braga and Toledo's literature go into detail that the "creation of a peacekeeping economy" in the region following the deployment of the soldiers may have been one of the main causes of this spike in reports. They explain the rise in services established to cater to the peacekeepers including sex workers, and that they especially, fall victim to soldiers who take advantage of their difficult situation knowing that they will not likely receive any repercussions from their overseeing authority.²⁵ This would be a contrary point to the factor we are discussing, as the same peacekeepers that are deployed in a specific region to potentially re-establish some form of authority instead take part in a cycle that leaves numerous people who are meant to be protected, exposed and at the mercy of the competence of the organization to keep its personnel in check. If an IO only promotes violence while established in a region, then potentially looking to instead pursue reparation claims through a state actor might instead be more favorable.

Confined Nature of the Problem

The second factor we will look at will be how large the area of effect is for issues like the cholera outbreak in Haiti. This is important to analyze as if those who grant reparations do not see the area of effect as large enough, it may potentially determine whether or not reparations will be given at all. In the case of the cholera outbreak in Haiti, the issue remained localized for a bit and then spread to neighboring countries in the Caribbean and Latin America. This is potentially what prompted reparations to be given as the issue became more widespread eventually pointing to the origin of a lack of responsibility on the part of MINUSTAH in Haiti. A study done by Page et al finds that the initial spread of the disease was most impactful in the rural regions of Haiti, as these locations did not have substantial access to services provided by health authorities.²⁶ The interesting correlation with the data that is substantiated by Page et al. is the ties we can make to the time gap between the implementation of the reparations following the accusation of the UN's involvement in the outbreak and the time period where the UN remained in denial and no reparations were implemented. This is highlighted by the graph present in the prior factor study.²⁷ This correlation points to the potential assumption that the UN was reluctant to implement reparations early on simply due to the fact that they did not regard the area of effect to be great enough at the time. This would carry heavy consequences if true as the amount of aid required following its spread to other countries would only go up in terms of cost and potential damage to the UN's reputation overall.

A comparative study we could draw on to substantiate this portion of the factor analysis is the work of Appel and Loyle. Their study focused on finding a predictable and measurable relationship between post-conflict states and their levels of foreign

25. Aureo Toledo, and Lorraine Morais Braga. "Abuse and Sexual Exploitation in Peace Operations: The Case of MINUSTAH." *Revista Estudos Feministas* 28 (2020).

26. Anne-Laure Page, Iza Ciglenecki, Ernest Robert Jasmin, Laurence Desvignes, Francesco Grandesso, Jonathan Polonsky, Sarala Nicholas, Kathryn P. Alberti, Klaudia Porten, and Francisco J. Luquero. "Geographic distribution and mortality risk factors during the cholera outbreak in a rural region of Haiti, 2010-2011." *PLoS neglected tropical diseases* 9, no. 3 (2015): e0003605.

27. Ibid

direct investment. They were able to complete their findings with a positive relationship between nations that we're able to obtain and complete post-conflict justice, reparations, and the level of foreign direct investment they received following a conflict.²⁸ This relationship means that nations who were able to mitigate their conflict in an efficient and contained enough manner and deter the risk of potentially re-escalating conflict were able to retain more foreign direct investment. This relates to the factor at hand in that issues that can be consolidated in a reasonable amount of time with limited consumption of external peacekeeping resources are often rewarded with greater investment or confidence in the missions that are sent to mitigate the disaster. If this assumption is true, the potential reason for Haiti not receiving reparations until the situation spiraled out of hand, was because the operators of the MINUSTAH mission and those above them had low confidence such an issue would remain contained within the borders of Haiti. Thus, making them reluctant to invest in reparative action until there was no denying they were at the root of the disaster.

This example ultimately substantiates the result of the case study, which is that the level of containment relating to the problems in Haiti has to be smaller and historically more recent, otherwise the chances of the issue being addressed in a timely and effective manner are decreased substantially. With regards to the case study overall, it is a plausible assumption that the UN would not have ceded reparations to Haiti at all if it had not been for the ultimate push for accountability following the proof of them being responsible, and that they likely were aware the issue was going to be a large one.

Motivations for Reparative Justice

The third and final factor we will account for will be finding the line between reparations that came from the motivation of actually wishing to rectify the situation present in a country versus completing reparations to preserve standing in the international scope. This difference is important to analyze as occasionally, reparations can be placed simply for the political benefit or clout the state or organization may receive. If this rings true, it may potentially lead to the reparative actions that are taken not being of actual constructive value. This can lead to things like the incorrect distribution of resources and the ineffective supplement of foreign intervention, which can ultimately lead to a worse situation than before. The UN is ultimately regretting its lack of early intervention in the disaster in Haiti as the damaging effects of being caught in denial have largely weighed heavier than the potential intervention at the onset of the epidemic. This at least exemplifies the reasoning as to why the UN has continued its funding and commitment towards remedying the situation in Haiti as generally, they still have a game of damage control to adhere to.

The World Health Organization, the U.S. Centers for Disease Control, and the Pan American Health Organization all chose purposefully to not intervene or investigate the issue directly as it unfolded. This highlights a specific trend amongst the relationships of international organizations on the global scale as each of them has a tight balance to maintain. Each body's action reflects on the operations of another, as a result, each organization has to be particular in the events they choose to intervene in as the relationship could be thrown out of balance if one can be connected to the follies of another. To tie this back to the factor being analyzed, bodies such as states or international organizations may be hesitant to grant reparations on the basis of

28. Benjamin J. Appel, and Cyanne E. Loyle. "The economic benefits of justice: Post-conflict justice and foreign direct investment." *Journal of Peace Research* 49, no. 5 (2012): 685-699.

wishing to create tangible change or righting the wrongs committed and instead may only implement them as damage control after the situation has spiraled out of their immediate control. With the UN and MINUSTAH, it grows increasingly clear that other IOs avoided involvement in the disaster in order to avoid the international social damage that came as a result of the neglect prolonged by the UN. This substantiates the factor in that it's growing increasingly clear the UN only offered reparations as a way to avoid the cutting of funding and major scrutiny of the international and people groups that hold it accountable.

It is clear that the goal was never to bring stability to the region and that the underlying objectives were for nations involved to gain a greater security status in the international community as a whole.

CONCLUDING THOUGHTS ON CASE

To conclude, this case study has served the main function of better understanding the correlation between when reparations are implemented and what factors lead to their implementation. This case is one of few where reparative actions were actually taken in order to attempt to better the condition of a people group being wronged at the hands of external power and are, if anything, a step in the right direction for the global human condition. Haiti is still grappling with the effects of the cholera epidemic which is now compounded by political unrest, natural disasters, and the coronavirus pandemic. However, the funding and pledge to aid the country through the challenging circumstances from an organization that previously wronged the country sets a precedent for all states and international actors to reconsider their level of accountability in regard to affairs in countries they share a past with.

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International Cooperation to Mitigate the Negative Effects of Climate Change

JACINTA DUNCAN

ABSTRACT

To hypothesize international cooperation as a probable solution to the climate change disaster, this study focuses on the relationship between policymakers and epistemic communities. By exploring works by scholars such as Peter Haas, this paper seeks to re-iterate the Intergovernmental Panel on Climate Change's (IPCC) mission as an epistemic community to facilitate joint efforts among governments to reduce greenhouse gas (GHG) emissions. This paper's hypothesis states that international cooperation is more likely to be successful than other institutions and explores the benefits of cooperation.

INTRODUCTION

Among the many debates surrounding an efficient and long-lasting solution to the drastic effects of global warming, the policy action with the most evidence in favor of its probable success is that of sanctioned and monitored international cooperation. The rising global temperature has drawn many world leaders to the conversation on how to mitigate the negative effects of climate change, and measures to undergo international policy coordination have already begun. In the middle of the conversation are knowledge-based networks, or epistemic communities. These groups are institutions made up of professionals in their fields who assist policymakers who are not well-versed in the issues at hand. They are able to influence policy-making by formulating norms and casual beliefs they believe should be brought to the attention of policymakers. The most prominent epistemic community in the field of climate control is that of the Intergovernmental Panel on Climate Control (IPCC). Established in 1998, this group of scientists and engineers gathered to play a major role in the establishment of climate change policies due to their impartial published findings and reports that are well-respected by politicians and corporations alike. This paper will analyze Constructivist theories through works by Peter Haas alongside a number of other sources such as the Intergovernmental Panel on Climate Change's 5th Assessment Report. Peter Haas's paper "Epistemic Communities, Constructivism, and International Environmental Policies" will act as the foundation for the argument that if the IPCC, as a well-respected epistemic community, mandates international cooperation to mitigate the negative effects of climate change with evidence, then policymakers across the world will comply.

LITERATURE REVIEW

Peter Haas provides a well-rounded outlook on epistemic communities and their role in the world order. Haas defines epistemic communities as a concept of 'constructivist' theory who utilize their expert training and quantified knowledge to participate in

discourses to establish authority in several disciplines.¹ They must have a reputation to provide impartial conclusions and policy actions within normative beliefs to shape politics. Due to their shared knowledge and ability to offer explanations of the correlation between policy achievement and anticipated results, policymakers will obey the mandates of a respected epistemic community. Haas states, “They are more likely to provide information that is politically untainted, and therefore, more likely to work in the political sense that it will be embraced and followed by political authorities concerned about the need for appearing impartial.”² Through this, Haas demonstrates the ability of respected epistemic communities to influence the state’s interests by bringing attention to issues and developing normative beliefs. Often, decision-makers without sufficient knowledge or experience in a field will struggle to identify concerns and come up with an adequate plan of action or solution. These groups facilitate discourses in which these professionals discuss explanations for their beliefs and describe correlations between possible policy recommendations. Haas draws this conclusion on the basis that the issues the world faces today are becoming more complex and officials are uncertain about how to determine the right course of action to solve these problems³. Knowledge is demonstrated as a sphere of power and is utilized to gain influence over policy making since officials without the proper experience will need to turn to those who can offer explanations and effective solutions. In order to do so, epistemic communities will attempt to influence state interests by identifying and bringing issues to the attention of leadership alongside the necessary information needed to create a sense of compulsory action. While leaving room for officials to define their own state interests, epistemic communities work hard to establish the dimensions of issues to validate their findings and solutions. This relationship of policy coordination draws the conclusion that if an epistemic community can gain respect, then policymakers will align their interests with their findings.

The three main pools of research and action followed by epistemic communities are “uncertainty, interpretation, and institutionalization.”⁴ Haas describes the period of time when officials are at a loss when working towards formulating possible policies that can be used to counteract any threats, this uncertainty leads to a demand for impartial knowledge. Epistemic communities are able to satisfy the demand by analyzing the relationship between social and physical processes and scientific evidence. They are able to provide information that explains the consequences of actions and decisions; this way, the information they provide is not based on simple guesses but on interpretations. The example Haas introduces in his writing is the hypothesized threat of the deterioration of the ozone layer to which there was not much information put together on how to go about tackling this danger.⁵ This was a

1 Peter, Haas, M. “Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone: International Organization.” Cambridge Core. Cambridge University Press, May 22, 2009. <https://doi.org/10.1017/S002081830000148X>.

2 Peter, Haas. “Epistemic Communities, Constructivism, and International Environmental Politics,” 2015. <https://doi.org/10.4324/9781315717906>.

3 Peter, Haas . “Epistemic Communities, Constructivism, and International Environmental Politics,” 2015. <https://doi.org/10.4324/9781315717906>.

4 Peter M, Haas. “Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone: International Organization.” Cambridge Core. Cambridge University Press, May 22, 2009. <https://doi.org/10.1017/S002081830000148X>.

5 Peter M, Haas. “Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone: International Organization.” Cambridge Core. Cambridge University Press, May 22, 2009. <https://doi.org/10.1017/S002081830000148X>.

period of uncertainty and policymakers had no inclination on how to solve or reduce the damage to the atmosphere therefore they turned to knowledge-based networks. The third action epistemic communities take under Haas, institutionalism, describes the intervention and construction of policy that they participate in.⁶ In summary, epistemic communities first define issues and connect them to the self-interests of states, facilitate cause-and-effect relationships between these issues and interpretations of consequences, and finally develop a framework of policies based on the information gathered through causal beliefs and instruments of empirical analysis.

PATTERNS OF EPISTEMIC COMMUNITIES

Haas describes the patterns of epistemic communities by clarifying that rather than just consisting of groups of professionals in their disciplines, they are also comprised of individuals who share a common value or ideology that motivates their attraction to social action⁷. This is how epistemic communities establish themselves, identify state interests and negotiate solutions to conflicts. In addition, these groups share casual beliefs as well. These causal beliefs are formulated based on their experience in practices that developed their ability to clarify the connections between the issue at hand and possible policy coordinated solutions. Haas writes that this common policy enterprise is usually based on a conviction to benefit and enhance the welfare of all human beings alike. It is important for these groups to be able to offer causal explanations rather than principled beliefs since they appreciate an analytic level of “formulating and justifying their policy discourses.”⁸ Epistemic communities are known for validating their findings and knowledge with a high standard they set for themselves while working on obtaining their goals. In the sphere of climate action, epistemic communities championing themselves in this field are more often than not scientists and engineers who are respected in terms of their authority and reputation for impartial expertise. Usually, they have held positions in the past within other minor organizations such as think tanks, academia, or firms. Unique to knowledge-based networks, they are bound to information and truth tests, making it difficult to stray towards biases and personal convictions. Haas defends this claim by explaining due to the reliance on facts and truth, work done by epistemic communities is more likely to be effective in successfully reaching their ambitions and interests. In his paper, “Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone” Haas speaks to the role of epistemic communities to coordinate successful national policies to protect the ozone layer. He writes that “in the face of foreign policy decision makers’ uncertainty... The epistemic community was largely responsible for identifying and calling attention to the existence of the threat to the stratospheric ozone layer and for selecting policy choices for its protection.”⁹ This is a prime example of policymakers turning to knowledge-based networks to diffuse the uncertainty facing those who are not well-versed enough in specific disciplines. Haas describes the emergence of epistemic communities as a

6 Peter, Haas . “Epistemic Communities, Constructivism, and International Environmental Politics,” 2015. <https://doi.org/10.4324/9781315717906>.

7 Peter, Haas . “Epistemic Communities, Constructivism, and International Environmental Politics,” 2015. <https://doi.org/10.4324/9781315717906>.

8 Peter, Haas . “Epistemic Communities, Constructivism, and International Environmental Politics,” 2015. <https://doi.org/10.4324/9781315717906>.

9 Peter M, Haas. “Banning Chlorofluorocarbons: Epistemic Community Efforts to Protect Stratospheric Ozone: International Organization.” Cambridge Core. Cambridge University Press, May 22, 2009. <https://doi.org/10.1017/S002081830000148X>.

need-based occurrence rather than happenstance, this way he stresses the purpose of these experts to serve as a reliable and qualified resource for policymakers.

In Olga Löblová's journal, "Epistemic Communities and Experts in Health Policy-Making", Löblová provides insight into reliance on epistemic communities in the technological health industry by further demonstrating the role these specialists play in policymaking as governments turn to their knowledge and expertise. Löblová writes that developing countries looked to these knowledge-based networks when predicting the significance of buying computer technology scanners; "Experts from different disciplines were needed to try to predict the scanner's consequences for patients' health outcomes, clinical practices, medical ethics, and the broader society as well as for hospital and public budgets. From the mid-1970s, health economists, public health specialists, statisticians, and some clinicians met and exchanged views at an international meeting,"¹⁰. Institutions such as the International Society of Technology Assessment in Health Care and the International Society for Pharmacoeconomics and Outcomes Research were developments following these events and continued to carry authority in the fields of health innovation and technology. Epistemic communities organized workshops for the Ministry of Health after disseminating their views to implement causal beliefs and common policy goals. Through this, they are able to access policymakers and convince them of their consensus on a common policy goal that called for HTA (Health Technology Assessment) to answer the problems of growing health care budgets in "the age of increasingly sophisticated medicine and rising patient demand."¹¹ Since they believed that the HTA had long been absent in the European Union, experts called upon the HTA to define a benefits package of health services. It's also important to note that since many states are dependent on the decisions of external nations' policy choices, it can be argued that epistemic communities are often able to influence nations outside of their own. Epistemic communities can manipulate the demand for knowledge domestically and internationally by defining their own casual norms and beliefs since their decisions and advice are considered binding for their impartial adherence to the truth. Their advice is more likely to be successful and more effective than a policy formulated by politicians with personal biases. Since some policymakers can influence the behavior of other states, it is more likely for interests to align and facilitate international policy coordination. When there is a demand for guidance in issues that state's all over the globe are facing simultaneously, such as climate change, the knowledge and advice of epistemic communities are looked at too.

THE INTERGOVERNMENTAL PANEL ON CLIMATE CONTROL

An example of an epistemic community that is respected and well-known is the IPCC or the Intergovernmental Panel on Climate Control. This group was adopted in 1998 by the United Nations Environment Program and the World Meteorological Organization to provide policymakers within the UN with the appropriate information and policy recommendations through reports on the science of climate change. The IPCC's website states that its mission is to make these reports with respect to "the social and economic impact of climate change and potential response strategies and elements for

10 Olga, Löblová. "Epistemic Communities and Experts in Health Policy-Making." OUP Academic. Oxford University Press, November 1, 2018. https://academic.oup.com/eurpub/article/28/suppl_3/7/5149569?login=true.

11 Olga, Löblová. "Epistemic Communities and Experts in Health Policy-Making." OUP Academic. Oxford University Press, November 1, 2018. https://academic.oup.com/eurpub/article/28/suppl_3/7/5149569?login=true.

inclusion in a possible future international convention on climate.”¹² As Institutions begin to play a much greater role in politics and policymaking by gaining power through information and creating norms that surround issues brought to governments’ attention, the IPCC is at the front lines of the conversation on climate change.

The IPCC has 3 divisions within the organization. Working Group 1 focuses on the Physical Science Basis of Climate Change, Working Group 2 pays attention to Climate Change Impacts, Adaptation, and Vulnerability while Working Group 3 handles the Mitigation of Climate Change. Alongside these main bodies of professionals are task force groups that are usually short-term engagements for specific questions or issues that must be handled in a period of time. The example used on the IPCC’s website is of a task force created to address and improve gender-related issues.

In all, this group of experts has since its founding released a 5 Assessment Report outlining the urgent goals of climate policymaking. The first identified the issues of climate control and outlined the cause-and-effect of mandating international cooperation. The next, published in 1995, gave empirical reports to governments to consider when formulating their target goal within the ongoing Kyoto Protocol in 1997. The third, 2001, focused mainly on adaptations that needed to be made. In 2007 the fourth report was published laying out the foundation of the Kyoto Protocol and the warning of warming to 2 degrees Celsius. Finally, in 2014, the fifth report was finalized and published with its input and ambitions for the Paris Climate Agreement. The IPCC is currently working on its 6th report where they will release 3 sets of reports made up of 3 Special Reports and a report on Methodology, alongside the 6th Assessment Report. Among the Special Reports is a response to world leaders under the Paris Agreement’s request for a detailed report on the urgency and validity of the global warming of 1.5 degrees Celsius. These reports have been looked towards during many conversations on climate control. For example, in 2001 during the conversations of the international climate control agreement the Kyoto Protocol, states looked towards the IPCC’s expertise and instruction to explain the validity of the relationship between the Kyoto Protocol’s targets and its ability to produce successful results for climate change mitigation.¹³ Then in 2003, during the 9th Conference of the Parties, the Least Developed Countries Fund was formed under the policy recommendation of the IPCC’s 3rd Assessment report.¹⁴

IPCC has found respect on all fronts. Aside from international governments and policymakers, main contributors to greenhouse gas emission and those who profit off of fossil fuels have spoken in favor of the IPCC findings in reports. For example, the Oil and Gas industry in the United Kingdom, known as OGUK, has released a statement speaking on the IPCC’s Assessment Report which included a conclusion on transitioning to low-carbon energy. They concluded that “the industry body highlighted that the UK’s continental shelf is rapidly emerging as a global center for the development of the technologies and noted that the sector has committed to cut emission from oil and gas production to net-zero by 2050.”¹⁵ The chief executive of the

12 “History of the IPCC.” IPCC. Accessed January 9, 2022. <https://www.ipcc.ch/about/history/>.

13 “Timeline: Un Climate Talks.” Council on Foreign Relations. Council on Foreign Relations. Accessed January 9, 2022. <https://www.cfr.org/timeline/un-climate-talks>. Environmental and Energy Study Institute (EESI).

14 “Timeline of Major UN Climate Negotiations.” EESI. Accessed January 9, 2022. <https://www.eesi.org/policy/international>.

15 Andreas, Exarheas. “Oil Groups Comment on IPCC Report.” RIGZONE Empowering People in Oil and Gas. [rigzone.com](https://www.rigzone.com/news/oil_groups_comment_on_ipcc_report-11-aug-2021-166152-article/), August 11, 2021. https://www.rigzone.com/news/oil_groups_comment_on_ipcc_report-11-aug-2021-166152-article/.

OGUK, Deirdre Michie, claimed to have taken the information provided by the IPCC and made a goal with new technologies in mind to adapt to the future of low carbon.

Another example of the IPCC findings spoken highly of by those who are being targeted by their reports was when the director of public affairs and communications at the Independent Petroleum Association of America pronounced, “the natural gas production and use has created the cleanest air quality the United States has seen in two decades”¹⁶ when asked about her opinion of the IPCC’s involvement in the oil and gas production industry. In addition, the president of the Texas Oil and Gas Association, Todd Staples said, “Protecting and improving the environment is of the utmost importance to the Texas oil and natural gas industry and focusing on policies and operations that deliver meaningful results toward environmental progress is key”¹⁷ in a conversation regarding the IPCC’s Assessment Report.

In 2007, the IPCC was also awarded the Nobel Peace Prize for its achievements as a well-respected epistemic community. The Norwegian Nobel Committee alongside former United States Vice-President Al Gore stated that the prize was given to the organization for their “efforts to build up and disseminate greater knowledge about man-made climate change, and to lay the foundations for measures that are needed to counteract such change.”¹⁸ The rising reliance on institutions and knowledge-based networks in policymaking and politics has led to a dependence on the IPCC as a well-respected epistemic community to lead the discourse and policy action on climate change.

As one of the many organizations that advocate for more international cooperation in the realm of climate control, the Intergovernmental Panel on Climate Control stands by the norm that climate change is an issue that all countries and all governments are facing by claiming that the consequences of global warming will hit every nation drastically. But at the same time, the result of proactive and successful attempts to reduce greenhouse gas emissions will benefit all nations non-exclusively. In order to defend their stance on cooperation, the IPCC lists the challenges that cooperation will diffuse, “Multiple actors that are diverse in their perception of the costs and benefits of collective action; emissions sources that are unevenly distributed, heterogeneous climate impacts that are uncertain and distant in space and time; and mitigation costs that vary.”¹⁹ The IPCC works to explain international cooperation as a means to make it difficult for larger actors to cheat non-members out of public goods through sanctioned over or under production.

IPCC’S ASSESSMENT REPORTS

As a part of the International Cooperation: Agreements and Instruments chapter of the 5th Assessment Report, the IPCC has published a set of criteria for assessing the means of international cooperation. This evaluation criterion includes, “environmental effectiveness, cost-effectiveness, distributional considerations, and institutional

16 Andreas, Exarheas. “Oil Groups Comment on IPCC Report.” RIGZONE Empowering People in Oil and Gas. rigzone.com, August 11, 2021. https://www.rigzone.com/news/oil_groups_comment_on_ipcc_report-11-aug-2021-166152-article/.

17 Andreas, Exarheas. “Oil Groups Comment on IPCC Report.” RIGZONE Empowering People in Oil and Gas. rigzone.com, August 11, 2021. https://www.rigzone.com/news/oil_groups_comment_on_ipcc_report-11-aug-2021-166152-article/.

18 “History of the IPCC.” IPCC. Accessed January 9, 2022. <https://www.ipcc.ch/about/history/>.

19 “IPCC — Intergovernmental Panel on Climate Change.” Accessed January 9, 2022. https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf.

feasibility.”²⁰ Beginning with environmental effectiveness, this refers to the ability of any climate change policy to achieve the ambitions it set out for itself. Typically, in a climate change policy, these goals are set to diminish the causes and effects of global warming such as reducing GHG emissions, and this is usually seen in all attempts at international action to create emission-reduction targets (i.e., Kyoto Protocol). As a part of the IPCC’s strive for climate action, they recognize that the motivation of most states is economic prosperity and have worked to formulate cost-effective solutions that appear attractive to capitalists and economists. Writers express those agreements must have incentives for actors in order for states to consent to participation. In the same report cited above, the IPCC writes that “enhancing production of public goods may be achieved by internalizing external costs ... Economic instruments can incorporate external costs and benefits into prices, providing incentives for private actors to reduce external costs and increase external benefits more optimally”²¹ as one example of a cost-effective solution for corporations and industries to consider. This is considered the economic or cost-effective criteria sought after in an international agreement. This refers to the ability of a policy to reach its climate change emission reduction goal at the lowest possible cost. In addition, technological innovation and developments are a great way to reach a cost-efficient strategy that in turn can facilitate economic growth. For example, the development of solar power in the United States will account for 11% of the United State’s energy consumption in 2020, and the use of solar panels in residential and commercial buildings will increase by 22% from 2019.²² As for distributional equity, this term refers to the possibilities of differentiation responsibilities or “burden – and – benefit-sharing across countries and across time.”²³ The idea of differentiated responsibilities calls on major polluters to take responsibility for their actions and work harder to reduce their emissions while also funding and allocating resources to nations that are most vulnerable to the negative effects of climate change. Distributional equity can also explain the nature of one state’s decision affecting and influencing another. This can be seen both in policy and in results, for example, the “spillover effect” that leads to an unequal distribution of impressions. The example used by the IPCC is “emissions reductions in developed countries lowering the demand for fossil fuels and thus decreasing their prices, leading to more use of fossil fuels and greater emissions in developing nations.”²⁴ This illustrates the impact developed countries have on developing nations and how it would be most efficient for those countries to take action in order for climate action to work. Finally, institutional feasibility is reduced into 4 sub-criteria: participation, compliance, legitimacy, and flexibility. Participation accounts for the number of parties consenting to an agreement, however, said parties can refer to the shared greenhouse gas emissions target, geographical coverage, as well as number of willing states. Compliance is a state’s

20 “IPCC — Intergovernmental Panel on Climate Change.” Accessed January 9, 2022. https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf.

21 “IPCC — Intergovernmental Panel on Climate Change.” Accessed January 9, 2022. https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf.

22 Mickey, Francis. “U.S. Energy Information Administration - EIA - Independent Statistics and Analysis.” The United States consumed a record amount of renewable energy in 2020 - Today in Energy - U.S. Energy Information Administration (EIA), June 16, 2021. <https://www.eia.gov/todayinenergy/detail.php?id=48396>.

23 “IPCC — Intergovernmental Panel on Climate Change.” Accessed January 9, 2022. https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf.

24 “IPCC — Intergovernmental Panel on Climate Change.” Accessed January 9, 2022. https://www.ipcc.ch/site/assets/uploads/2018/02/ipcc_wg3_ar5_full.pdf.

ability, and willingness, to adhere to an agreement's requirements. Incentives to comply can alter a nation's inclination to agree to all aspects of an agreement. Legitimacy is a state's level of reliance on the substantive rules and decision-making procedures of these agreements. Parties must accept and implement decisions, demonstrating their belief that the requirements and targets of the agreements are valid and legitimate. Finally, flexibility refers to the institutions themselves, requiring them to be flexible and have the ability to adapt to new information and changes. The IPCC utilizes the concept of "social learning" to describe this adaptation towards political or economic shifts in order to be successful in the realm of international policy coordination. These four-term criteria make up the IPCC's perspective on an efficient and resourceful means for international cooperation.

The IPCC is consistently releasing the findings of all 3 working groups and the task groups. Supporting constructivist theory, the norms and causal beliefs that the IPCC has governed have bound policymakers to understand and undergo policy recommendations that focus on the findings of cost-effectiveness based on evidence and truth, that force officials to continuously comply.

SHARED INNOVATION

These technological and economic innovations are essential to the fight against climate change but can only go so far without the mobilization of these developments. They must be shared in order to have a meaningful impact, simply the presence of technological development is not enough to mitigate global warming and cooperation must occur. Private ownership and capitalism threaten the ability of these new green technologies to sufficiently reduce the impact of a worldwide climate disaster. Capitalist innovation values profit and competition; those two things are the main interests of capitalists and market ran economies. In this case, "Merely regulating the private sector rather than making deep inroads into socializing capital and businesses' private property doesn't remove the profit motive from the economy, it only seeks to constrain it in various ways. As long as our economy chases after profit it will seek ways to circumvent any regulation."²⁵ Due to this, if funding climate control or more expensive green technologies impedes their right to make a profit, they will, as the quote states, seek ways to circumvent any regulation. In order for new green technologies to have any meaningful impact on global warming, there must be some sort of democratic structure that facilitates the distribution of resources to societies with the goal of reducing carbon emissions on a large scale. Private property rights, such as patents block this achievement under capitalism because "...this allows the patent holder to block competitors from the market, or extract licensing fees before allowing them to enter, and consequently charge above-market prices to its customers. Patent rights thus slow the diffusion of new innovations by restricting output and raising prices."²⁶ Looking at the most recent COVID – 19 vaccine rollouts, due to patents implemented on vaccines from nations such as the United States and Great Britain, nations that lacked the technology to develop their own struggled to make effective biological protection against the disease, and COVID – 19 continued to spread. This does a great job of illustrating technological developments that were successful in their initial purpose but

25 Simon, Hanna. "The Fight against Climate Change Is a Fight against Capitalism." UNCW English 201, February 24, 2021. <https://uncwenglish201.wordpress.com/2021/02/24/the-fight-against-climate-change-is-a-fight-against-capitalism/comment-page-1/>.

26 Brink, Lindsey. "Why Intellectual Property and Pandemics Don't Mix." Brookings. Brookings, June 2, 2021. <https://www.brookings.edu/blog/up-front/2021/06/03/why-intellectual-property-and-pandemics-dont-mix/>.

failed overall in their long-term goals without widespread direction. The existence of private property rights and patents under a capitalist market rule describes the difficulty of broad climate action if one nation essentially hogs the technology.

SUPPORTING THE FREE MARKET

Author Abeer El-Sayed in his paper titled, “Sharing R&D Investments in Cleaner Technologies to Mitigate Climate Change” explores international cooperation as a means to develop and advance technological innovation. He takes a critical standpoint on agreements that only wish to tackle greenhouse gas emissions and looks to compute whether or not further cooperation on a technological development scale would be the best alternative. He hypothesizes “even with no explicit agreement on emissions, a technological agreement leading to increase R&D in clean technologies, and thus lower abatement costs, might yield a reduction in emissions”²⁷ and begins to look towards IEA investments and spill-over effects once again. However, he finds that with the presence of spill-over effects into non-signatory countries, participation and continued investments will decrease. He concludes that international cooperation to reduce greenhouse gas emissions is the best hope to mitigate the negative effects of climate change in all nations. In addition, El-Sayed speaks on the relationship between intellectual property rights and IEA investments through a study conducted by Goeschl and Perino (2012) who concluded that the presence of IPRs on green technologies tends to lead to fewer investments and signatories due to the “anticipation of rent extraction by the firm that holds a global patent to the new abatement technology”²⁸ thus reassuring the argument in favor of international cooperation in terms of greenhouse gas emissions.

In addition, domestic capitalist efforts have already failed therefore there is no alternative to international cooperation. Specifically referring to Cap and Trade, an example of a policy to facilitate creative destruction, market systems that have proven to be counterproductive. A Cap-and-Trade system places a cap, such as an allowance, on just how much an enterprise can pollute. The idea was that this would give them the incentive to produce environmentally conscious means of production (it was recognized that capitalists run on incentives), but the pollution caps increase over time and if a company is able to pollute less than their limit, they are allowed to sell their remaining allowance to companies who are looking to produce over their GHG emission limit. Additionally, more than half of the states in the United States who had agreed to this system had completely abandoned this form of climate control by 2008.²⁹ This is an example of how market-based trading is not the most effective means compared to international cooperation.

Instead, due to this failure, sustainable development will take over as the leading innovative green technology. Sustainable development to Peter Haas includes differentiated responsibilities and furthering environmental management.³⁰ This

27 El-Sayed, A., and S. J. Rubio. “Sharing R&D Investments in Cleaner Technologies to Mitigate Climate Change.” Shibboleth authentication request. Accessed January 9, 2022. <https://www-sciencedirect-com.jpllnet.sfsu.edu/science/article/pii/S092876551400061X>.

28 El-Sayed, A., and S. J. Rubio. “Sharing R&D Investments in Cleaner Technologies to Mitigate Climate Change.” Shibboleth authentication request. Accessed January 9, 2022. <https://www-sciencedirect-com.jpllnet.sfsu.edu/science/article/pii/S092876551400061X>.

29 Barry G. Rabe. “The Durability of Carbon Cap-and-Trade Policy.” Wiley Online Library. John Wiley & Sons, Ltd, May 20, 2015. <https://onlinelibrary.wiley.com/doi/full/10.1111/gove.12151>.

30 Peter, Haas. “Epistemic Communities, Constructivism, and International Environmental Politics,” 2015. <https://doi.org/10.4324/9781315717906>.

calls for designing policies that demand more from major polluters who possess more capabilities and designing international measures that benefit both the environment and economic interests. Haas calls on epistemic communities to continue addressing new issues and facilitate learning through a combination of substantive issues and disciplines.³¹ Haas writes that he believes, "...the core elements of sustainable development have greater technical consensus, political support and provide a better mechanism for achieving substantive and tactical linkages on international policy agenda."³² Through this, we can determine the validity of sustainable development as a potentially successful form of international cooperation and in fact, proves to have economic incentives. In a study titled, "Examining the Bi-Directional Long-Run Relationship Between Renewable Energy Consumption and GDP Growth" researchers conducted a test to determine the bilateral relationship between energy consumption and GDP growth. Authors Usama Al-mulali, Hassan Gholipour Fereidouni, Janice Ym Lee, and Che Normee Binti Che Sab study multiple forms of energy consumption, including sustainable energy and its contrast, fossil fuel, through 4 brackets of countries: low, lower-middle, middle, upper-middle, and upper income. By applying the fully modified least square test known for its impartial and fully efficient equation used to calculate long-run correlation problems, these economic researchers determined that in 79% of countries there is a positive bilateral relationship between renewable energy and GDP growth.³³ More specifically, there is a higher chance of this relationship to be found in higher-income countries, therefore the majority of new green technology investments should be in these nations where the incentive is most abundant. 19% of the countries tested proved what they deemed the neutrality hypothesis, which stated that while these countries had no formal relationship between renewable energy and GDP, there was still no apparent loss. This paper also makes a note that according to the Renewable Global Status Report sustainable development projects created over 3.5 million jobs in the period of 2008-2011 worldwide.³⁴

CONCLUSION

Overall, with the impartial findings of epistemic communities and the demand for their knowledge, international cooperation is the best hope to mitigate the negative effects of climate change with respected epistemic communities, specifically the Intergovernmental Panel on Climate. Published findings, in accordance with the norms and casual beliefs formed in order the constraint policymakers into following their recommendations, support mandated international cooperation. Due to the impartial and expert knowledge of the IPCC, their perspectives and guidance on international cooperation are more likely to be the most effective and efficient solution to reducing greenhouse gas emissions, with adherence to the capitalist market systems that spread through many nations. The IPCC has taken into consideration the competitive interests of states and has taken measures to include these securities in their assessment reports making it difficult for governments to ignore the causal beliefs and issues brought to light. The innovation of sustainable development with differentiated responsibilities

31 Peter, Haas. "Epistemic Communities, Constructivism, and International Environmental Politics," 2015. <https://doi.org/10.4324/9781315717906>.

32 Peter, Haas. "Epistemic Communities, Constructivism, and International Environmental Politics," 2015. <https://doi.org/10.4324/9781315717906>.

33 Al-mulali, Usama, Hassan Gholipour Fereidouni, Janice Ym Lee, and Che Normee Binti Che Sab. "Examining the Bi-Directional Long Run Relationship between Renewable Energy Consumption and GDP Growth." *Shibboleth authentication request*, June 2013. <https://www-sciencedirect-com.jpllnet.sfsu.edu/science/article/pii/S1364032113000932>.

34 Al-mulali, Usama, Hassan Gholipour Fereidouni, Janice Ym Lee, and Che Normee Binti Che Sab. "Examining the Bi-Directional Long Run Relationship between Renewable Energy Consumption and GDP Growth." *Shibboleth authentication request*, June 2013. <https://www-sciencedirect-com.jpllnet.sfsu.edu/science/article/pii/S1364032113000932>.

and international measures that will benefit both the environment and the economy will take over as technological advancements are bound to occur. A combination of all these explanations and organization provides a sufficient analysis of the challenges and efficacy of international cooperation, thus proving that joint efforts are necessary to mitigate the causes and negative effects of climate change.

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Uncovering the Mental Health Aspects of a Human Rights Issue: Detention for Asylum Seekers in Australia

KATE LEONG

ABSTRACT

This study explores the relationship in Australia between past migration policy and the current standing of the immigration detention system in the country, largely located in immigrant detention centers (IDCs). A particular focus is on the mental and physical health of detainees as threatened by the conditions of the IDCs, due to both the current legal framework and the physical and emotional conditions that exist within these centers. Data examined includes information collected from the Australian Department of Homeland Security and interview data from mental health studies conducted with current detainees. The connection is also drawn between privatized prison facilities owned by particular companies and immigrant detention centers which are owned and operated by the same companies. As history informs the present, the past history of the original migration policies is traced, including the landmark court case of *Goodwin v. Al-Kateb*, which involved the case of a Palestinian asylum-seeker on the shores of Australia that set the precedent for indefinite terms of immigrant detention throughout Australia.

INTRODUCTION

Immigrant detention centers (IDCs) are facilities in Australia that have moved to the center of attention of many groups concerned with human rights. These detention centers detain “unauthorized migrants” that arrive on Australian soil and are the result of policy that was formulated after World War II. Immigrant detention center facilities in Australia have evolved over time and there are currently major health concerns that arise from the existence of these centers. Both physical and mental health are threatened within the walls of these centers. Australian policies concerning unauthorized migrants, including the persistence of the use of the detention centers, are infused with a fear of the ethnic or indigenous “Other” shaped white Australians’ view on migration into Australia, beginning with the arrival of post-war migrants onto the shores of Australia in the twentieth century.

In the past two decades, the privatization of the detention system has also had a significant influence on the management within the IDC facilities and has separated the management of the IDCs from the Australian government. Both physical and mental health are threatened within the walls of Australian immigrant detention centers (IDCs) and the privatization of the detention system for migrants over the past two decades has led to detention centers that have no significant difference from prisons.

METHODOLOGY

I intend to practice a mixed-methods approach, blending rhetorical analysis with interview and statistical data. The interview data I will pull from the Bull et al and Fiske source material, which was collected directly from interviews with subjects

within or just released from the immigrant detention facilities in the various parts of Australia or surrounding territory authorized to detain migrants. The statistical data I will pull from the Australian Department of Home Security and the monthly statistical report they publish on immigrant detention and community under residence determination. Additionally, one case study that had great influence on Australian lawmakers' views on migrant policies is the case of *Goodwin v. Al-Kateb*. In this case, a Palestinian man was kept in the detention centers indefinitely for multiple years, after he initially arrived on Australian soil. This was an exceptional case and set precedent for how the cases of asylum seekers would be processed or handled within Australian national policy.

LITERATURE REVIEW

Immigration detention is a popular source of inquiry for migration scholars, as it occurs in the content of many different states and interacts with each state's migration policies in a tangible way that has an immediate effect on migrants.¹ Immigration detention, as outlined by Wilsher, "[i]n a pattern repeated throughout developed nations, and increasingly copied by others, unauthorized or rejected foreigners are being held in prison-like facilities for extended periods without serious legal controls or accountability."² Health concerns can be defined as both mental and physical health concerns, which are often directly connected to each other. As stated by Bull et al, "various dimensions of mental and physical health and well-being" as examined in the study that stems from the Ombudsman report, and often these health issues are appearing after "the course of confinement in an isolated detention center."³

Zembylas argues that there exists a "hidden politics of fear" that incorporates fear of the Other, including migrants, refugees, and asylum seekers; that is then politicized and integrates that fear into policy that represents an ambivalence about refugees. In both the public discourse, and within how the populace of a state is educated, discourse analysis reveals that there is a production of this fear as well as a perpetuation of it.⁴ As the world modernizes and introduces ever more technologies into the socio-political landscape, the ways in which information is disseminated matters, for the discourse can perpetuate long-standing fears and stereotypes, as well as misconceptions.

Immigration detention laws are policies that incorporate the treatment of migrants into codified law that is then practiced and upheld in various scenarios. As Wilsher asserts, "Such control initially took place at ports of entry in order to separate out aliens viewed as 'undesirable'."⁵ As noted, this was mainly on economic and racial grounds. Detention was viewed in largely bureaucratic terms, being seen as a necessary part of the process of selection and care of aliens arriving at the border.

Detention became both politicized and a tool for national security. "In these cases detention itself moved more centre-stage, becoming linked to national security policy

1. Daniel Wilsher. 2011. *Immigration Detention: Law, History, Politics*. Cambridge, England: Cambridge University Press.

2. Daniel Wilsher. 2011. *Immigration Detention: Law, History, Politics*. Cambridge, England: Cambridge University Press.

3. Melissa Bull, Emily Schindeler, David Berkman, Janet Ransley. 2013. "Sickness in the System of Long-Term Immigration Detention." *Journal of Refugee Studies* 26 (1): 47–68. <https://doi.org/10.1093/jrs/fes017>.

4. Michalinos Zembylas. "Agamben's Theory of Biopower and Immigrants/Refugees/Asylum Seekers: Discourses of Citizenship and the Implications for Curriculum Theorizing." *Journal of Curriculum Theorizing*, (2010): 26(2), 31.

5. Daniel Wilsher. 2011. *Immigration Detention: Law, History, Politics*. Cambridge, England: Cambridge University Press.

and thus bearing analogy with war-time tools like preventative internment of enemy aliens. In the United States, many scholars discuss the prison industrial complex. In the Australian context, Neumann and Tavan remind readers that after a period of time during which Australia was becoming accustomed to holding migrants in detention in appointed facilities, private corporations eventually took over the management of such named facilities and thus grew the prison industry, essentially, in Australia.⁶

Scholars⁷ also discuss how “prison” and “immigrant detention” can essentially be interchangeable, because of the quality of housing in the immigrant detention centers and because of the inhumane treatment and human rights abuses that occur within the walls of the centers. Health concerns and safety concerns abound for those who are somehow connected to the detention centers. Scholars⁸ explore the various health concerns that arise from the detention centers. Effects on mental health range from suicidal ideation to PTSD and long-term depression.⁹ Often, mental and physical health are both explored within the same study, since the two are found to be interconnected and both dimensions of personal health are challenged for those migrants who are kept indefinitely in the detention centers.

THE AUSTRALIAN MIGRANT DETENTION POLICY: ANALYSIS AND IMPLICATIONS

In 1992, the Parliament in Australia passed a policy that explained that informal past and present events would now happen in a government-sanctioned process: migrants that arrived at the shores of Australia without a visa would be put into mandatory migrant detention. This is known as the Migration Amendment Act of 1992, put forth into Australian parliament during the Keating government.

Some scholars in migration studies point to other exclusionary policies that have been put into place in Australia to delineate who might “qualify” as Australian and to limit the amount of new influx into the country. The existing irony is that Australia is a somewhat new nation in terms of its modern government and politics. Its establishment originally as a British penal colony in the middle of the 20th century ignored the pre-existing cultures and structures of the Aboriginal and Indigenous peoples native to the island.

Exclusion, however, is not quite the specific issue when it comes to the detention centers in Australia that have become the result of the original 1992 Migrant Detention Policy. The detention centers themselves as they have arisen in Australia and surrounding islands over the past two decades are as much a problem as the original policy. While the Migration Amendment Act of 1992 created a major problem for asylum seekers in Australia by establishing a policy that enabled indefinite detention for these asylum seekers, the dehumanizing and debilitating nature of the migrant

6. Klaus Neumann. “Oblivious to the Obvious?: Australian Asylum-Seeker Policies and the Use of the Past.” In *Does History Matter?: Making and Debating Citizenship, Immigration and Refugee Policy in Australia and New Zealand*, edited by Klaus Neumann and Gwenda Tavan, 47–64.

7. Melissa Bull, Emily Schindeler, David Berkman, Janet Ransley. 2013. “Sickness in the System of Long-Term Immigration Detention.” *Journal of Refugee Studies* 26 (1): 47–68. <https://doi.org/10.1093/jrs/fes017>; Klaus Neumann. “Oblivious to the Obvious?: Australian Asylum-Seeker Policies and the Use of the Past.” In *Does History Matter?: Making and Debating Citizenship, Immigration and Refugee Policy in Australia and New Zealand*, edited by Klaus Neumann and Gwenda Tavan, 47–64.

8. Melissa Bull, Emily Schindeler, David Berkman, Janet Ransley. 2013. “Sickness in the System of Long-Term Immigration Detention.” *Journal of Refugee Studies* 26 (1): 47–68. <https://doi.org/10.1093/jrs/fes017>.

9. Melissa Bull, Emily Schindeler, David Berkman, Janet Ransley. 2013. “Sickness in the System of Long-Term Immigration Detention.” *Journal of Refugee Studies* 26 (1): 47–68. <https://doi.org/10.1093/jrs/fes017>.

detention process that exists in these Australian detention centers is the crucial problem at hand in the contemporary conversation on migrants to Australia. The original Migration Amendment Act came about when in the fifty years following World War II, Australian national politics had to reckon with not only what Australia was facing in the aftermath of the war, but also the pressures as the world shifted through the global changes of modernity. In the later part of the 20th century, the United States and Europe experienced quickly changing demographics and quickly changing trends in who was applying for asylum, attempting to or needing to cross borders, and therefore encountering immigration control firsthand.

Australia, meanwhile, had originally very small numbers of asylum seekers and refugees compared to other nations. The peak year, in 1994, saw 900 'boat people' arrive. These new arrivals generated large-scale public and political concern.¹⁰ From these new arrivals, who were then waiting for their claims to be processed, this "public and political concern" turned into actionable detention, which kept the "applicants in unfenced camps for over two years before their claims were refused."¹¹

As Australia determined how to eventually release these refugees, national conversations began on how to specifically handle migrants without visas, those seeking asylum, and so on. Ultimately, the Act passed in 1992 addressed mandatory detention for those who arrived in the years of 1989, 90, 91, and 92, and also put forth stipulations that migrants could be held in official government detention if they arrived at the shoreline without a visa.

The consequences of this policy put into a national mandate, that government officials were mandated to hold those without visas by law, were such that detention centers became places to keep migrants indefinitely. The operative word here is indefinitely. Due to the fact that the policy did not specifically articulate when migrants' sans visas would need to be released, with a stipulation of how to hold government officials accountable for releasing these migrants, immigration detention in an official detention center of Australia became a new norm.

This Australian immigrant detention policy, as a norm, came to affect the next almost 30 years in how interfacing with immigrants without visas would take place between government officials and those migrants. Mandatory detention that was implemented in the year of 1992 has since caused debate among the Australian public, and the global public, about the effectiveness of such policies and the appropriateness of holding such a policy as a nation.¹² As Australia began to hold more and more asylum seekers in a detention that did not have a clarified end date, the world began to take notice and at this point, in today's global society, Australia is one of the first names to emerge in research on immigration detention.

Much research delves into the impact on socio-emotional well-being and mental health to which the subsequent immigrant detention centers in Australia are directly linked. Depression, suicidal ideation, and post-traumatic stress disorder all have ties to the experiences of migrants that are kept in these facilities. In this respect, a psychological lens has been taken to multiple studies of these mental health problems for migrants in the detention centers. Additionally, a public health lens has also come

10. Daniel Wilsher. *Immigration Detention: Law, History, Politics*. Cambridge: Cambridge University Press, 2011.

11. Daniel Wilsher. 2014. *Immigration Detention: Law, History, Politics*. Cambridge, England: Cambridge University Press.

12. Melissa Bull, Emily Schindeler, David Berkman, Janet Ransley. 2013. "Sickness in the System of Long-Term Immigration Detention." *Journal of Refugee Studies* 26 (1): 47–68. <https://doi.org/10.1093/jrs/fes017>.

up frequently in studies which analyze how physical health of migrants has been affected in the facilities, as well as how health care workers who assist and manage within these facilities have had experiences which expose them to the negative impacts of this national policy.

The Australian Human Rights Commission in 2009 reported back from an inspection of the immigrant detention center (IDC) on Christmas Island. “The IDC looks and feels like a prison. The Minister himself acknowledges that it represents a maximum-security environment. The security measures are excessive and inappropriate for accommodating asylum seekers.”¹³ In turn, the Minister himself made the comparison between the immigration detention center here and a maximum-security prison, which was not the original stated intention of immigrant detention according to the policy. Quickly the immigration detention centers that formed their new structures of immigration control in the 1990s and early 2000s became facilities that directly resembled prisons. Not only prisons, but maximum-security prisons. Much research has been reported back worldwide in criminal justice literature on the dehumanizing effects of long-term imprisonment. These asylum seekers were thus put into a markedly similar environment, although they had not committed a crime.

Another critique of the policy is how different scenarios could be followed with appropriate responses. For example, in the case of *Al-Kateb v. Godwin*, a Palestinian man, Al-Kateb was denied asylum and so in turn he requested removal, which is legal to do, technically, under the Australian Mandatory Detention Act. The government then had the duty to expel him, but because Palestine is not currently recognized as a state, he was considered stateless in this instance as well and the government could not figure out where to send him. He remained in Australian detention for three years.¹⁴ Ahmed Ali Al-Kateb was a Palestinian citizen but born in Kuwait. Due to his Palestinian affiliation, Al-Kateb was not able to apply for or receive citizenship in Kuwait. When Al-Kateb arrived in Australia, he then put an application in for a protection visa. The application was initially rejected, Al-Kateb appealed twice to different bodies of government, and ultimately, asked to be removed after all appeals were denied. Technically, Al-Kateb was “stateless” as a Palestinian man, therefore Australia did not figure out where to send him. Ultimately, the decision in this case by a 4-3 majority was that because of the Mandatory Detention Act, holding him indefinitely was legal.¹⁵ This case has now given precedent to, being the Mandatory Detention policy of 1992 has carried forward the norm of migration detention as a legal entity in Australia, and of protection of detention facilities and employees who hold these migrants for an indefinite period of time.

DETENTION FACILITY DATA: ILLUMINATING THE LENGTH AND NATURE OF DETAINMENT

Data from the detention facilities themselves can shed light onto the nature of the detainment. As many of the aforementioned scholars have argued, these periods of detainment have been politicized in specific ways that align with an Othering rhetoric that existed in spaces beyond the governmental offices that wrote the original

13. Melissa Bull, Emily Schindeler, David Berkman, Janet Ransley. 2013. “Sickness in the System of Long-Term Immigration Detention.” *Journal of Refugee Studies* 26 (1): 47–68. <https://doi.org/10.1093/jrs/fes017>.

14. Daniel Wilsher. *Immigration Detention: Law, History, Politics*. Cambridge: Cambridge University Press, 2011.

15. Cameron Boyle. “Executive Detention : A Law Unto Itself? A Case Study of *Al-Kateb v Godwin*.” *University of Notre Dame Australia Law Review* 7, no. 7 (2005): 119-26.

policy on migrant detention post-World War II. Before exploring how that rhetoric has developed over time, one must examine the specific numbers from the facilities themselves in order to gain a clearer picture of what is happening as a part of the much larger theoretical and practical debate.

The numbers from the immigrant detention facilities, published multiple times a year by the Australian government, give the basic idea of how long an unauthorized immigrant or asylum seeker might spend detained in one of the facilities. In 2020, a statistical report from the Department of Home Security, Australia, was published one time per month. The latest available report is from August 2020, and the table included below shows the length of time spent on average by a detainee in one of the facilities, and also the breakdown of how long was spent by all of the detainees in these facilities.

Time In Immigration Detention Facilities

At 31 August 2020, there were 1545 people in immigration detention facilities.

Of these 1545 people, 17.9 per cent had been detained for 91 days or less and 52.2 per cent had been detained for 365 days or less.

Table 8 – Length of Time of People in Held Immigration Detention Facilities at 31 August 2020

Period Detained	Total	% of Total
7 days or less	29	1.9%
8 days - 31 days	80	5.2%
32 days - 91 days	167	10.8%
92 days - 182 days	177	11.5%
183 days - 365 days	353	22.8%
366 days - 547 days	236	15.3%
548 days - 730 days	107	6.9%
731 days - 1095 days	173	11.2%
1096 days - 1460 days	81	5.2%
1461 days - 1825 days	45	2.9%
Greater than 1826 days	97	6.3%
Total	1,545	100%

At 31 August 2020, the average period of time for people held in detention facilities was 564 days.

(Source: Australia Department of Home Security, Australia Border Force)

As one can see in the above figure, 22.8% of detained immigrants were kept for between half a year to one full year. An additional 22.2% had been kept for between one full year and two years. This means that almost half of all 1545 people in the immigration detention facilities were kept for between one to two full years of their life, in facilities which have been cited to so closely resemble prisons that the same social phenomena—such as rioting within—is appearing.

DETENTION CENTER EXPERIENCES: INTERVIEW DATA

At its core, the issue with how detention centers have developed and evolved in Australia is a human rights issue. As the Australian Human Rights Commission references, the United Nations High Commissioner for Refugees' 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees determine a baseline for treatment that acknowledges the humanity of refugees. Australia signed agreements at the 1951 Convention and signed the 1967 Protocol. Amongst the many stipulations within these UNHCR protocols and agreements, the language includes the right of the refugee to "humane" treatment,

and with interview data, one can see that the actual experience on the ground for the refugees who are kept within the detention centers. In Steel et al's study (2004), the study team administered structured psychiatric interviews with ten families who had all been held for over two years in one of the IDCs. The study details trauma exposure, and similar to Fiske's findings, (2014) riots were found to be traumatic experiences that detainees remembered later on when recounting their experience within the IDCs.¹⁶ When psychiatrists for Steel et al's study were conducting these interviews, they included a reflection section that separated responses from the adults and the children of the families. 14 adults and 19 children were interviewed, all of whom had lived in the IDCs for months prior to the interview process.

Table 4: Adults and children (n,%) reporting being bothered a lot or extremely by symptoms associated with negative detention experiences in the week prior to interview.

	Adults (n=14)		Children (n=19)	
	n	%	n	%
I have sudden and upsetting memories of the time in detention	14	100	17	90
I have images of threatening or humiliating events in detention	14	100	17	90
Since I have been in detention, I have sudden attacks of anger over small things	14	100	17	90
When I think about detention, I feel extremely sad and hopeless	14	100	17	90
I avoid talking about detention because it upsets me	13	93	17	90
Since being in detention, I avoid interacting with other people	13	93	16	84
If I think about detention, I become nervy, sweaty, shaky and/or have rapid heart beat	13	93	15	79
I have nightmares about the things that have happened to me in detention	12	86	14	74
My feelings are numb since I was in detention	12	86	10	53

(Source: Steel et al, 2004, Australian and New Zealand Journal of Public Health)

As one can see in the table above, for the first five statements, 100% of the adults interviewed and 90% of the children interviewed agreed with these statements that represent lasting memories and impacts of psychological trauma. Steel et al acknowledge that they worked with a limited sample size for their study, but that the levels of psychological trauma were such that greater attention needs to be paid to the mental health impacts of the immigrant detention experience for migrants

Table 1: Experiences of adults (n=14) and children (n=19) rated as posing a serious or very serious problem during the time spent within the detention centre environment.

Children ^a	No.	%	Adults	No.	%
Boredom	19	100	Being handcuffed during transport	14	100
Isolation	19	100	Breaches of confidentiality by officers	14	100
Poor- quality food	19	100	Delays in processing refugee application	14	100
Seeing people self-harm	19	100	Denial of adequate food	14	100
Seeing people making suicide attempts	19	100	Exposed to hunger strikes	14	100
Exposed to hunger strikes	18	95	Interviews by immigration officers	14	100
Inappropriate medical care	18	95	No access to recreational activities	14	100
Not allowed to keep food in own room	18	95	Not allowed to make or receive phone calls	14	100
Poor access to counselling	18	95	Poor access to dentistry	14	100
Poor access to dentistry	18	95	Racist comments	14	100
Poor access to emergency medical care	18	95	Being sworn at	13	93
Poor access to long-term medical care	18	95	Fears of being sent home	13	93
Witnessing physical assault	18	95	Inappropriate medical care	13	93

(Source: Steel et al, 2004: 528, Australian and New Zealand Journal of Public Health)

16. Steel, Zachary, Shakeh Momartin, Catherine Bateman, Atena Hafshejani, Derrick M. Silove, Naleya Everson, Konya Roy et al. 2004. "Psychiatric Status of Asylum Seeker Families Held for a Protracted Period in a Remote Detention Centre in Australia." Australian and New Zealand Journal of Public Health 28 (6): 527-36. <https://doi.org/10.1111/j.1467-842x.2004.tb00042.x>.

Worth noting is that all 14 adults rated “racist comments” as a major problem that was experienced within the IDCs.¹⁷ Connected with my earlier assertions about Othering rhetoric, this shows there is a racial and Othering element in the relation from the officers to the detained persons.

Courtesy of Melissa Bull et al’s study of mental and physical health problems due to immigration detention in Australia, included below is a table from her interviewees in the study who have reported back on what mental health ailments they have experienced while in IDCs.

Table 2

Frequency of Mental Health Issues				
	PRC (n = 123)	Iran (n = 48)	Vietnam (n = 34)	Afghanistan (n = 23)
Suicidal ideation	21.1%	35%	18%	39%
Sleep disorder	23.6%	10%	15%	13%
Self harm	17.9%	23%	9%	22%
PTSD	6.5%	44%	3%	17%
Depression	25.2%	54%	29%	61%
Anxiety	13.8%	15%	26%	26%
Other	12.2%	19%	3%	24%

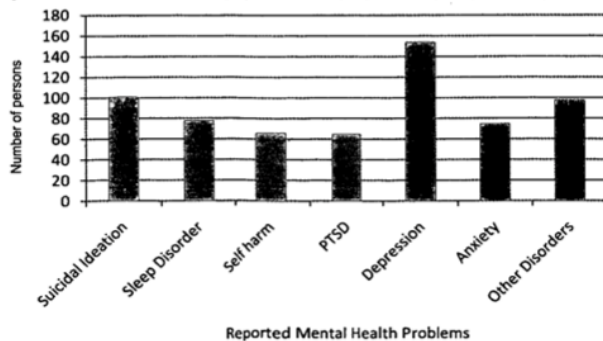
(Bull et al, 2013)

As one can notice within this data, the immigrants recorded in Bull et al’s study were from one of four main countries: The People’s Republic of China, Iran, Vietnam, and Afghanistan. Suicidal ideation, Depression, PTSD, and Anxiety were particularly high across the participants. Additionally, the number of people within this study was high: hundreds of people were included in Melissa Bull et al’s study. Below is a bar graph detailing the mental health problems faced in the IDCs in terms of the number of people experiencing them.

Figure 1

Reported Mental Health Problems

Other disorders described include schizophrenia, panic disorder, delusional disorder, adjustment disorder and psychiatric symptoms (unspecified)



(Bull et al, 2013)

As can be seen within the bar graph above, depression was the highest-reported mental health problem from the detainees, with suicidal ideation and other disorders

17. Steel, Zachary, Shakeh Momartin, Catherine Bateman, Atena Hafshejani, Derrick M. Silove, Naleyva Everson, Konya Roy et al. 2004. “Psychiatric Status of Asylum Seeker Families Held for a Protracted Period in a Remote Detention Centre in Australia.” *Australian and New Zealand Journal of Public Health* 28 (6): 527–36. <https://doi.org/10.1111/j.1467-842x.2004.tb00042.x>.

coming in second. In fact, according to Bull et al's study, regardless of whether detainees were suffering mental health issues at the time of the study or not, the average time spent in the detention facilities was over 41 months, or close to 3.5 years.

When one compounds the mental health issues detainees were facing according to Bull et al's study, with the data from Steel et al's study, which demonstrated what both children and adults were witnessing and a part of while in detention, it is easy to see how with an ongoing lack of access to quality mental health care, these situations as created by the Migration Policy and of IDC privatization in action are in total violation of detainee's human rights.

PRIVATIZATION OF FACILITIES

Beginning in the year 2009, the company Serco took over the management and administration of Australian IDCs and became the official partner of the Australian government in terms of managing detention for unauthorized immigrants for all of Australia.¹⁸ Serco is an international corporation that works for security purposes, including the management of prisons, worldwide across the UK, Asia, the Americas, and now Australia.

Serco has changed their value statements in the past years since their initial contract with Australia in 2009, and now if one were to explore their value statements as published online, they state that their organization culture has four core values: trust, care, innovation, and pride. Their work is surprisingly broad, as the company website states that their work spans the sectors of defense, healthcare, justice, immigration, transport, and citizen services.¹⁹ The privatization of immigrant detention facilities has ultimately led to corporations running the day-to-day management of the facilities, rather than the Australian government itself managing the detention of the immigrants that its policies have led into an undefined period of time spent within the walls of essentially facilities that are no different from prisons.

As Serco also happens to run prison facilities in various countries around the globe, one can easily see how the Australian IDCs might be run similarly under their leadership and management. The prison as an industry, or prison industrial complex, is definitely applicable to the Australian case, as unauthorized immigrants are automatically detained indefinitely and kept within maximum security facilities, sometimes offshore from Australia in order to be even further separated from the physical experience of being accepted into Australian borders.

CONCLUSION

In sum, the case of the immigrant detention centers in Australia is one that is situated within the much larger contextual understanding of the prison industrial complex, as these facilities are essentially prisons. As countless government officials, social scientists and researchers, and medical professionals have uncovered, not only are these immigrant detention facilities no different from prisons, but the immigrants within their walls are subject to racial and ethnic bias, demeaning and dehumanizing treatment, and according to Australian policy are kept indefinitely, usually for upwards of two years.

18. Michael Flynn and Cecilia Cannon. "The Privatization of Immigration Detention: Towards a Global View." Global Detention Project. 2009.

19. Escape, The. n.d. "Immigration | Service Expertise - Serco Asia Pacific." Serco. <https://www.serco.com/aspac/sector-expertise/immigration>.

Part of the struggle for human rights in this scenario is to acknowledge the bitter and unfortunate realities of what is occurring within these facilities, as well as to use data to uncover and expose the realities so the Australian public and global public can become more aware of how immigrants are being treated and forced to live upon arrival upon the shores of Australia, often seeking asylum or refuge and fleeing from legitimate hardship. The mental health challenges that these detainees face are very real and deserve attention from the global public and our human rights consciousness. There is hope that with enough exposure and effective data collection, dissemination concerning Australian IDCs can influence public awareness of this topic, ultimately pressuring lawmakers to revisit the Australian Migration Detention policy and someday, fundamentally break down and change the system.

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Gendered Politics and Women's Rights in India and China

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ABSTRACT

Patriarchal views make a clear distinction between men and women in all aspects of a woman's life. This current research seeks to understand how Realism, Liberalism, Postcolonialism, and Feminism frame women's rights. Illustrating two cases of gendered violence and oppression of women in China and India, this paper shows that strong patriarchal views continue to dominate these two countries, despite Constitutional protections that remain unimplemented. The implications are important as patriarchy leads to various forms of gendered violence, human trafficking, and coercion of women in China and India.

INTRODUCTION

The topic of gender equality is constantly being discussed, yet society still lacks the answers as to why women in policy making are still under-represented. For this paper, I argue that to effectively change the unequal treatment of women, one must understand their daily struggles through a feminist point of view. The responsibility falls on governments and popular culture to change attitudes towards women and promote equal policies that allow women to live up to the same standards as their male counterparts. I also argue that patriarchal societies like China and India privilege cultural norms over Constitutional protection of women's rights, and both play roles in opportunity structures. Although these countries have taken major steps toward increasing gender equality and decreasing gender violence toward women, both societies still have a long way to go to reach a significant accomplishment.

LITERATURE REVIEW

The perspectives discussed on how gender affects foreign policy are Realism, Liberalism, Feminism, and Postcolonialism. The theory of Realism is a view that focuses on competitiveness and the conflictual side of the states on the international scene. It is not concerned at all with individuals and even more specifically gender, but with military and economic power at the state level. Realists contend that Realism focuses primarily on states in an anarchy international system, emphasizing the reasons for which great powers compete with each other.¹ Other Realists emphasize that survival is the most important goal for states, as they would not be able to pursue goals if their survival was not guaranteed.² They also consider realism as a still relevant theory playing a significant role in debates regarding states'

1. Stephen Walt. 2020. "The Realist's Guide to the Coronavirus Outbreak." Belfer Center for Science and International Affairs. March 19, 2020. <https://www.belfercenter.org/publication/realists-guide-coronavirus-outbreak>.

2. John J. Mearsheimer. 2006. "China's Unpeaceful Rise." *Current History* 105 (690): 160–62. <https://doi.org/10.1525/curh.2006.105.690.160>.

security and foreign policy.³ Realists make a strong case about states being focused on state/sovereignty's survival, competition in an anarchic system, security, and foreign policy, however, they miss addressing the individuals as a crucial factor of the state—specifically, women. The realist theory does not address the issues of how gender affects the policy as it does not even consider the individual, only actors at the state level.

The feminist theory calls for women's rights to be considered in decisions making process. Feminism criticizes Realism for leaving women out of the policy decisions making process.⁴ Many scholars contend that dominant theories in IR, such as Realism, are reluctant to take gender into consideration.⁵ Feminism questions the focus of sovereignty, interstate systems, and how these aspects seem to not have gender as they are seen from a mainstream perspective. Feminism criticizes Realism for not being inclusive in terms of decision-making policies.

Liberalism focuses on freedom and cooperation among states and institutions. This approach is appealing to many because it takes into consideration the idea of tolerance and specifically peace. They consider the individual persons as units of their analysis. Many scholars within the liberal perspective tend to emphasize the idea of cooperation and peace, and although they appear to take into consideration the individuals and their freedom, they do not necessarily take into consideration gender. When liberal theorists discuss peace, pointing to the Kantian triangle, they only emphasize the international organizations, economic interdependence, and democracy, not gender.⁶ As human beings are the ones who create their communities, we are also defined by those communities. Liberalism is committed to the security of individuals, focusing on how institutions can provide that security.⁷ Liberalism also sees a shift from the state-centric position of the world, to one where individuals are self-sufficient and free. Yet again, there is no mention of gendered decision-making.⁸ I agree with Owens and Pettman on security and the self-sufficiency of the individuals, as they make a good case about the human need for security, however the liberal theory, just as realism, seems to see things from a patriarchal mainstream perspective without taking into consideration how feminist perspectives are seeking to understand gender at global, political, and economic levels. Although many women use the terms liberalism, rights, autonomy, or self-respect, these terms associated with liberalism do not define feminist perspectives as they are inadequate for women's needs. Some scholars see the feminism theory in IR as opposite to liberalism, as "the liberal conception of human nature and of political philosophy cannot constitute the philosophical foundation for an adequate theory of women's liberation."⁹ Feminist thinkers also argue that liberalism is overly individualistic, without focusing on the

3. Charles Glaser. 2013. "Rational Theory of International Politics: The Logic of Competition and Cooperation." *Critique Internationale* N° 58 (1): 169. <https://doi.org/10.3917/crui.058.0169>.

4. Marysia Zalewski, Ann Tickner, Christine Sylvester, Margot Light, Vivienne Jabri, Kimberly Hutchings, and Fred Halliday. 2008. "Roundtable Discussion: Reflections on the Past, Prospects for the Future in Gender and International Relations." *Millennium: Journal of International Studies* 37 (1): 153–79. <https://doi.org/10.1177/0305829808093769>.

5. J. Ann Tickner. 1988. "Hans Morgenthau's Principles of Political Realism: A Feminist Reformulation." *Millennium: Journal of International Studies* 17 (3): 429–40. <https://doi.org/10.1177/03058298880170030801>.

6. Robert Russett. 2019. "What Is the Kantian Triangle?" *Philosophy-Question.com*. 2019. <https://philosophy-question.com/library/lecture/read/154728-what-is-the-kantian-triangle>.

7. John M. Owen 1994. "How Liberalism Produces Democratic Peace." *International Security* 19 (2): 87–125. <https://doi.org/10.2307/2539197>.

8. Ralph Pettman. 2017. *Is There a Discipline of IR? A Heterodox Perspective*. Oxford University Press.

9. Calman, Leslie J., and Alison M. Jaggard. 1984. "Feminist Politics and Human Nature." *Political Science Quarterly* 99 (3): 550. <https://doi.org/10.2307/2149958>.

communities or social groups such as families.¹⁰ Others have claimed that liberals are excluding women from social participation in policymaking.¹¹ Although liberalism addresses the individual, it seems to leave out the feminist point of view, especially when it comes to equal rights in the work field, freedom of choice, domestic violence, politics, policymaking and so much more.

The postcolonial feminist approach has challenged the mainstream view of a male-dominated world, by addressing many forms of inequality, gendered subordination, and oppression within society at the economic and political levels. Many postcolonial scholars have highlighted how women's lives are affected by factors such as race, nationality, and class "with gendered forms of subordination and inequality, and to contest political, economic, and sociocultural hierarchies of power both locally and globally."¹² Others have considered a division between the global North and global South a division between women as well, highlighting complex situations and criticizing Western feminism.¹³ Rajan, Park, Agathangelou, and Turcotte make a great case about postcolonial feminism as many of the women who live in areas characterized as the global south seem to suffer a lot of inequality based on socio-economic inequalities and political leadership. However, the scholars mentioned seem to miss the fact that the global south is still dominated by a patriarchal system. Women are marginalized, left without resources, and not taken into consideration in global politics. This position describes not only how gender affects policy but how women's marginalization from social, economic, and cultural points of view is more vivid in the global South than in the North.

The feminist approach seeks to acknowledge the role of women involved in policymaking and their accomplishments at the international and domestic levels.¹⁴ In times of war, women are even more aware of the gender norms regarding civilians' protection. The theory also critiques human rights, as there seems to be a difference in men's and women's relationship with the state.¹⁵ I agree with Dussel's position as many scholars seem to forget that women might have a different, more successful approach in terms of policy and decision-making while dealing with international relations. Many women have families, and their decisions might be more inclusive— factors that are important in resolving conflicts. Feminism generally addresses the role of gender in policymaking process well, because women have been marginalized and wrongly deemed not strong enough as their male counterparts.

What does gender mean one might ask? The definition provided by the Cambridge Dictionary portrays gender as "the physical and/or social condition of being male or female" while the Merriam Webster one describes the term as "the behavioral, cultural, or psychological traits typically associated with one sex." These definitions

10. Martha C. Nussbaum 2008. *Women and Human Development: The Capabilities Approach*. Cambridge Cambridge Univ. Press.

11. Linda M. G. Zerilli 2020. "Feminist Critiques of Liberalism." *The Cambridge Companion to Liberalism* 15 (135–80): 355–80. https://www.academia.edu/9731960/Feminist_Critiques_of_Liberalism_The_Cambridge_Companion_to_Liberalism_.

12. Raji S. Rajan, and Yane M. Park. 2000 "Postcolonial Feminism/Postcolonial and Feminism". In H. Schwarz and S. Ray (eds.) *A Companion to Postcolonial Studies*. Oxford: Blackwell, pp. 53–71.

13. Miriam O'Reilly, 2017. "Feminism and the Politics of Difference." *Oxford Research Encyclopedia of International Studies*.

14. Enrique Dussel. 1994. 1492 : El Encubrimiento Del Otro : Hacia El Origen Del "Mito de La Modernidad" : Conferencias de Frankfurt, Octubre de 1992. La Paz, Bolivia: Plural Editores.

15. Laura Parisi. 2010. "Feminist Perspectives on Human Rights." *Oxford Research Encyclopedia of International Studies* 3 (465–45). <https://doi.org/10.1093/acrefore/9780190846626.013.48>.

do not empower one gender or another but points out to a simple differentiation based on physical and behavioral (or cultural) traits. Still, somehow, being of the female gender seems to be automatically labeled as not equal to the male gender, putting the male gender at a higher level with more rights. Many point out the status of women advancing in society and gaining similar roles to men, but there are many societies that still do not allow women to have the same rights. The Beijing Declaration, lays out important points underlining the importance of equal rights between women and men, emphasizing the importance of women's participation in all spheres of society, equality, and the same opportunities. They conclude that women's rights are human's rights as well.

The United Nations Security Council Resolution 1325 provided the start of the WPS (Women, Peace, and Security) agenda, which focuses on the gendered impacts of violence and oppression, calling for full integration of women in policymaking processes and for special laws to protect women (and girls) from gendered violence, especially during armed conflicts.¹⁶ But we cannot focus on the integration of women in policymaking progress if we do not acknowledge that many cultures are based on gendered oppression which represents only patriarchal beliefs.¹⁷ Many experts regard the lacking practice of human rights, and implicitly women's rights, as human rights violations that are culturally endemic or innate to such societies.¹⁸ These violations are rooted in a non-written social and sexual contract that assesses males' patriarchal rights over women, establishes men's political rights over women and establishes orderly access by men to women's bodies.

I argue that from a feminist point of view and as a woman, gendered violence and suppression of women's rights do not align with global standards of gender equality nor respect the UN definition of human rights. This violence does not take place evenly among sexes or among genders and therefore, I argue that gendered violence and control of women's bodies is specifically happening through the suppression of rights and decisions of women in an exclusively patriarchal society that dictates the rules. Prearranged marriages, delimited property rights, and delimited family rights are mostly patrilineal in established birth order rights. The establishment of patriarchy directly contributes to a delimitation of women's rights in these societies.

This paper focuses on the control of gendered bodies, by describing the policies specifically around marriage rights, denial of rights of property, and gendered violence. I am going to study gendered violence by discussing forced marriages, violence against women, lack of property rights, and the patriarchal system in China and India. Through these case studies, I am going to show challenges that uniquely fall on women, and much of the so-called traditions are implemented by a patriarchal system of gendered control over women. I will start from the most critical point for a country, its Constitution, to learn how laws for equality between genders have been developed to understand what brought women to this current situation.

16. Carolyn Nordstrom. 1999. "Wars and Invisible Girls, Shadow Industries, and the Politics of Not-Knowing." *International Feminist Journal of Politics* 1 (1): 14–33. <https://doi.org/10.1080/146167499360022>.

17. Lisa Wade. 2015. "Racial Bias and Media Coverage of Violent Crime - Sociological Images." *TheSocietyPages.org*. 2015. <https://thesocietypages.org/socimages/2015/04/09/racial-bias-and-media-coverage-of-violent-crime/>.

18. Sylvia Tamale and Jean Oloka-Onyangko. 1997. "Bitches at the Academy: Gender and Academic Freedom at the African University." *Africa Development / Afrique et Développement* 22 (1): 13–37. <http://www.jstor.org/stable/24482781>.

CHINA

China adopted its Constitution (or the Supreme Law) on December 4th, 1982, during the 5th edition of National People's Congress. In 1988, China's Constitution was amended during the 7th National People's Congress, in 1993 during the 8th the National People's Congress, and in 2004 during the 10th National People's Congress, as described on the Chinese government website.¹⁹ To better understand how Chinese women are taken into consideration while crafting the laws, it seems that although some articles promote women's rights and interests, others clearly restrict them. As an example, article 49 of the Chinese Constitution refers to matters of marriage and family, underlining that mothers and children are under state protection. On the other hand, one of the articles that clearly restrict women's rights, article 51, states that "the exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens."²⁰ Laws have been implemented to protect women on paper, but the reality is completely different women's legal status is extremely limited, which is a form of violation of women's rights.

Chinese women's legal status seems to have been limited by cultural norms as women were taught to obey their paternal figure while they were little girls, then obey their husbands when they would get married, and last but not the least, obey the eventual son once they were a widow. This mentality/ culture seems to have been promoted by the Chinese philosopher Confucius, as men were "in charge of the law on nature" leading the Earth laws, "but a woman is the one who obeys men's teaching and integrates the reason." This deeply rooted concept of women being inferior to men only changed a little bit when Chinese society started to open more to the Western culture, at the end of the Qing Dynasty. Although the Chinese society showed more openness, many restraints on women were still enforced until the founder of the Chinese Republic Dr. Sun Yat-Sen introduced the concept of equal rights. This first step of acknowledging women gave birth to an extremely important feminist movement, May Fourth Feminist, challenging the status quo and recognizing the unjust gap between the genders. The Chinese Revolution in 1949 pushed the Chinese Government to commit to more equality between genders through new laws.²¹

Laws supporting women's rights started to change in the 1950s, outlawing arranged and forced marriages. In many cases, women were purchased by their future spouses, a practice that was a result of arranged marriages of a feudal process. Divorce or property disputes were out of the question for women, and in many rural areas, these domains remain restricted to customary practice in modern China. The new marriage law brought several changes for women, allowing them to understand the concept of being free to choose their spouse, getting a divorce, and independence from an economical point of view. Later in 1985 a meaningful change in successions laws was implemented which allowed Chinese women to receive inheritance rights, and to bring those rights into a new marriage. Although the law has been approved, only the educated women

19. The National People's Congress Of The People's Republic Of China. 2020. "Constitution of the People's Republic of China." [Www.npc.gov.cn](http://www.npc.gov.cn). May 1, 2020. http://www.npc.gov.cn/zgrdw/englishnpc/Constitution/node_2825.htm.

20. Ibid

21. China-United Nations. 2010. "Gender Equality and Women's Development in China." [China-Un.ch](http://www.china-un.ch/eng/rqrd/jbhc/t210715.htm). 2010. <http://www.china-un.ch/eng/rqrd/jbhc/t210715.htm>.

living in the urban areas utterly understand these rights, while over 70% of the women who live in the rural areas remain disinherited.²²

Chinese women also face elevated levels of domestic violence that can lead to crimes. The case of Li Yan in Sichuan Province in 2010 raised awareness about the levels of violence towards women, as well as the inequality in-laws toward women. Yan assassinated her husband in self-defense as he was continuously inflicting violence on her. For her act, during her trial, she received the death penalty in 2012. The case was sent to the Supreme Court. Guo, Li's lawyer, became an avid advocate for cases like Li's which raised awareness and requested a change that would hold men accountable for domestic violence. Media and NGOs played a significant role in amplifying Li's case and educating the population about matters such as domestic violence. Li's lawyer was able to influence the laws changes and in 2016 the new law would stipulate "that the injuring party's act of domestic violence constitutes a civil infraction, not a criminal offense."²³ After the law passed, Li's death sentence was suspended and "commuted to life with the possibility of parole if she did not commit a crime during that period."²⁴ Other reports indicate that at least one in four women experience such violence at home and only 533 such new cases were filed for the decision of the court. Li's case not only influenced the change of law and a status quo of subordination of women but sought to put a stop to domestic violence which was inflicted specifically on women and not on men.

Although some steps have been taken on paper to amend laws that would protect women from violence and give them the right to own property and be economically independent, many women in China still face elevated levels of discrimination and censorship. The "Me Too Movement" was embraced by women in China as well as it would promote the campaign against many issues such as exploitation, violence, and sexual abuse. The Chinese government made sure that the movement did not gain much momentum and censored all the websites or social media promoting it. If Chinese women insisted to advocate for it or simple social justice, they were arrested under a criminal suspect label.²⁵ In this case, women's voices were once more shut down with little recognition of their grievances in search of justice and equality.

INDIA

India had its first Constitution adopted in 1949, effective in 1950, replacing the Act 1935 that limited India's status to a Dominion.²⁶ The Indian Constitution was written by Dr. Ambedkar, and he took constructive steps to ensure women's independence in India. The Articles that promoted women's equality and rights within Indian society are Articles 14, 15, and 16. Article 14 discusses women's "equality before the law or the equal protection of the laws within the territory of India."²⁷ Article 15 focuses on how "no one should create any sort of discrimination only on the grounds of religion,

22. Ibid

23. Jieqi Luo. 2019. "Domestic Violence in China: Educating the Public." Nieman Reports. August 21, 2019. <https://niemanreports.org/articles/china-educating-the-public-about-domestic-violence/>.

24. Ibid

25. Bonny Lin. 2018. "Do Women in China Face Greater Inequality than Women Elsewhere? | ChinaPower Project." ChinaPower Project. July 18, 2018.

26. Beina Xu. 2013. "Governance in India: Women's Rights." Council on Foreign Relations. 2013. <https://www.cfr.org/background/governance-india-womens-rights>.

27. Nakharti, Nivedhaa, and Rajah Dhivyia. 2018. "The Constitutional Status of Women in India." International Journal of Pure and Applied Mathematics. <https://acadpubl.eu/hub/2018-120-5/2/172.pdf>.

race, caste, sex or place of birth or any of them within the territory of India.” Article 16 refers to equal employment opportunity for Indian citizens, but articles 39, 42, and 243 take into consideration women specifically being allowed to work in positions that were previously assigned to only men. The articles grant adequate human conditions, the right to have maternity leave, and the ability to have a seat reserved while women might be in an arbitration process in rural areas.

Many of these rights hinge on the legal status of women in India. Besides not being considered at the same level as men, many women are subject to a different legal status due to the socio-economic, cultural, and religious casts they might be part of.²⁸ In Indian society, over 75% of women live in rural areas and only 25% of them can read and write, while 54% of women who live in urban areas are literate. The caste system presents the oldest form of societal stratification in India, including religious groups and it is defined by the hierarchy. The Caste system is composed of several levels of social status. The Dalits represent the inferior caste group, and it is composed of street sweepers and latrine cleaners. The Sundra group is represented by the commoners, servants, and peasants while the Vaisha caste is composed of the landowners and merchants. Following them upwards there is the Kshatriya group represented by the kings and warriors. Finally, the highest group, Bhrami sees priests and academics as the highest level of Indian society. Regarding the Caste system, Section 14 of the Constitution mentions that the state “shall not deny to any person equality before the law or the equal protection of the laws within the territory of India” while prohibiting “discrimination based on the grounds of religion, race, caste, sex or place of birth.”²⁹ Even if laws are in place to avoid women’s discrimination, many of the laws are on paper only, a majority of women’s lives are based mostly on customs which affect their abilities to experience the same rights as men. Indian society is a deeply religious one and many of its customs are related to religion. Judge KB Rohtagi observed that the “introduction of constitutional law in the home is most inappropriate; it is like introducing a bull in a china shop.”³⁰

Regarding child marriages, the last amendment to this law sets the minimum age at 18 for young women and 21 for young men. Even with these laws in place the Indian society still practices forced marriages of girls between 11 and 17. These practices take place in the region of Shravasti where the child brides’ statistics are the highest of all in India and in the world.³¹ Many people point to the traditions, but the reality is even sadder. Girls and young women are once again sacrificed and abused of their rights of choosing their own destiny not only due to patriarchal domination, but also for lack of resources, access to education, and lack of protection against other abuses. Their families consider the young women liabilities.³² Their faith is sealed by a marriage where they do not have the opportunity to continue their education but are expected to perform the adult duties of a wife with husbands, often double their age. India has a large population, over 1.3 billion people, but the males dominate it with a ratio of 112

28. United Nations High Commissioner for Refugees. 1995. “Refworld | Human Rights Briefs: Women in India.” Refworld. October 1, 1995.

29. Ibid

30. Human Rights Watch. 2018. “India: Events of 2018.” Human Rights Watch. December 18, 2018. <https://www.hrw.org/world-report/2019/country-chapters/india/>.

31. Freedom of House. 2017. “Why Public Outrage Isn’t Enough to Stop Sexual Violence in India.” Freedom House. May 24, 2017. <https://freedomhouse.org/article/why-public-outrage-isnt-enough-stop-sexual-violence-india/>.

32. Sushma Iyengar. 2019. “The Development Discourse in India Neglects Women.” India Development Review. March 7, 2019. <https://idronline.org/the-development-discourse-in-india-neglects-women/>.

males to 100 females.³³ This difference in gender ratio is a product of female infanticide, an illegitimate practice of sex-selection of a baby. Although the practice has been banned in 1996, it is still practiced illegally.³⁴ Moreover, Indian women are becoming targets of rape and violence increased, as everyday cases of sexual assault or violence are reported.

Human trafficking and prostitution have reached extremely high numbers in India. According to estimates, young girls and adult women who are kidnapped and sometimes even sold by their own families represent more than 10 million women (about half the population of New York). "Poor village girls are typically targeted, with promises of schooling, jobs, or marriage. Parents do not have the means or knowledge to know better."³⁵ Although India is a democracy and prohibits prostitution and human trafficking through its Constitution, this phenomenon continues undisturbed. In 1949, the Indian government took part in the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others, committing to implement these regulations through the SITA (Suppression of Immoral Traffic in Women and Girls Act) in 1956, which was amended and renamed Immoral Traffic Prevention Act (ITPA).³⁶ Although the law mentions prostitution, it does not prohibit it nor does it consider prostitution a criminal offense, but only vaguely describes imprisonment up to three months if one is caught on the street, not indicating regulations for indoor situations. Section 2(f) clearly defines prostitution as "the act of a female who offered her body for promiscuous sexual intercourse for hire," a definition that incriminates only women and not men, pointing to the inequality between genders.

CONCLUSION

This paper explores the gendered violence, gender control, and suppression of rights of women in these two societies, addressing critical issues facing women. India and China have significant examples of how women have been subject to not only gendered violence, but also oppression, body control, and denial of human basic rights. A comparison of the countries regarding their history, laws, or gender inequality between male and female populations shows that women suffer gendered violence in many forms. The economic situation in both countries led to the development and better living standards but not to equality between men and women, as women face significant wage gaps compared to men. Although both countries provide equal rights on paper, the rights are not well implemented. Indian women can protest and claim their rights more easily than Chinese women who are censored and even arrested for dissenting against the CCP.

I argued throughout this paper that to effectively change the inequality between genders and consider women at the same level as men in China and India, one must

33. Anika Shah Chandani. 2019. "Sabarimala and Mobilization- a Problematic Coalition." *Indians 4 Social Change*. March 14, 2019. <https://indians4sc.org/2019/03/14/sabarimala-and-mobilization-a-problematic-coalition/#.YV96bi2cbdd..>

34. Tulsi Patel. 2018. "Experiencing Abortion Rights in India through Issues of Autonomy and Legality: A Few Controversies." *Global Public Health* 13 (6): 702–10. <https://doi.org/10.1080/17441692.2018.1424920>.

35. Kumar Regmi. 2006. "Trafficking into Prostitution in India and the Indian Judiciary." <https://www.stu.edu/Portals/law/docs/human-rights/ihr/volumes/1/373-406-KumarRegmi-TraffickingintoProstitutioninIndiaandtheIndianJudiciary.pdf>.

36. Amnesty International. 2020. "India Archives." Amnesty International. 2020. <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/india/report-india/>.

understand first the struggles and difficulties women have in these societies. Although governments and policymakers have attempted to adapt to modern eras, they are still too strongly tied to the patriarchal way of thinking when it comes to women's rights and way of living. Women need to have the same rights of independence and the ability to make choices on their own. The division between genders and gender roles must cease globally to move forward with progress and equal rights.

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Securitization of Refugee Populations: Dadaab and Moria Camps

TYLER DOMENY

ABSTRACT

Refugee camps are an unfortunate systemic problem stemming from the multi-faceted failures to enforce effective immigration policy, lack of cooperative action between state authorities and nativist sentiment of ‘host’ nations. These dynamics foster the grounds for the securitization of refugees, rather than utilizing the existing UNHCR regime to mitigate the global crisis. The securitization of refugees by members of the EU manifest similar characteristics to the refugee camps found in Dadaab, Kenya, and similarly fail to address precarious living conditions within the camps. This research focuses on the discrepancies between the proposed promises, legal language, and reality for life of refugees beholden to the global refugee regime. The purpose of this research is to bring awareness to these discrepancies between the host nation perspectives and global standards in order to promote new policies. This paper will identify way of strengthening the existing order by examining securitization of refugees in Kenya and Greece. This research will attempt to provide evidence that securitizing refugees exacerbates host nation hostility and is arguably counter-productive: The UNHCR regime’s strength is only commensurate to its ability to operationalize effective missions protecting global refugees.

INTRODUCTION

The institutional and international recognition of the definition, background, and existence of refugees is relatively recent. Only within the last 100 years have refugees been granted the opportunity to live more peaceful lives from the realities they flee. With the creation of institutions such as the UNHCR (United Nations High Commissioner for Refugees) prior to the Refugee Convention in 1951, coupled to a global consciousness of human struggle, legal protections for refugees were clearly enumerated. According to Erika Feller, former assistant high commissioner notes that the earliest example of legal representation for refugees was in Dr. Fridtjof Nansen of the League of Nations who was, “the first High Commissioner for Russian refugees in 1921.”¹ Although there has been solid progress in that time, institutional intentions often do not adequately distinguish the difference between means of state protection from outside forces and state securitization of refugee populations. Increasingly member states of the 1967 Refugee Protocol, the legal successor to the Refugee Convention, foster a host environment that resembles a defensive posture rather than a helping hand. In fact, according to Feller, “...some national asylum systems are resting increasingly on ad hoc

1 Erica Feller. “International Refugee Protection 50 years on: The Protection Challenges of the Past, Present and Future.” *International Review of the Red Cross* 83, no. 843 (2001): pg. 584

and subjective procedures built around the exercise of executive discretion.”² Refugee camps operated today by the UNHCR are beholden to certain local socio-political or geopolitical realities that are beyond their purview. Yet to some degree certainly within the realm of state control.

In order to better understand the correlation between the two, it is important to ask, “what factors influence state securitization of refugees?” If host-nation hostility is commensurate to the poor living conditions in and around refugee camps, then international institutions must address shortcomings. More specifically, identifying examples of host-nation distrust resulting in legislation, local animosity or belligerence toward refugee populations helps aid the argument that the existing regime needs augmenting. To do so, this paper draws from existing scholarly literature and experiences from the longest running complex of refugee camps in Dadaab, Kenya which primarily hosts Somalian refugees. To and Moria, on the Island of Lesbos in Greece, which primarily hosts Syrian, Libyan and Iraqi refugees. According to the UNHCR itself, refugees from other Greek Island camps such as Chios, Lesbos, Leros, Kos, and Samos all face host-nation hostility resulting in poor living conditions and lacking adequate protection from exploitation.³ This paper examines scholarly and legislative evidence in hope of reconciling the gap between host nation treatment and UNHCR mandated promised intentions.

LITERATURE REVIEW

Securitization of migrant populations is well researched and highly publicized in a field of International Relations. The theoretical and academic debates between realists, institutional liberals and constructivist, all with their own evidence in support of their perspective highlights the importance of the issues in the global community. However, presenting an adequate literature review must include various contending perspectives in order to gauge what points need addressing by relevant NGOs, international institutions and individuals to propel meaningful change and discourse. In doing so, we will better understand the broader implication of how the securitization of refugee populations limit potential policy solutions.

Of the many pertinent issues regarding refugees, understanding why refugee populations have increased volume of people and scope of in the last three decades is determinant on many factors. We start by examining contending perspectives in field of securitization of refugee groups. Erika Feller highlights the importance of globalization and its influence on socioeconomic inequality as legitimate purpose for ‘push’ factors. Her research focuses on how globalization has proliferated the need to adapt oneself to a global economy in which refugees are subjugated to an institutional order in which, “asylum countries are worried about receiving refugees without the prospect of their early repatriation; large scale arrivals are seen as a threat to political, economic or social stability and tend increasingly to provoke hostility and violence.”⁴ Feller’s research draws the correlation between a strong refugee regime as being necessary to adequately addressing the systemic issues surrounding the securitization of migration.

2 Erika Feller. “International Refugee Protection 50 years on: The Protection Challenges of the Past, Present and Future.” *International Review of the Red Cross* 83, no. 843 (2001): pg. 589

3 Andrej Mahecic. “UNHCR Calls for Decisive Action to End Alarming Conditions on Aegean Islands.” UNHCR. Last modified February 07, 2020. <https://www.unhcr.org/en-us/news/briefing/2020/2/5c3d2f3f4/unhcr-calls-decisive-action-end-alarming-conditions-aegean-islands.html>.

4 Erika Feller. “International Refugee Protection 50 years on: The Protection Challenges of the Past, Present and Future.” *International Review of the Red Cross* 83, no. 843 (2001): Figure 1.1

Article 14 of the 1948 Universal Declaration of Human Rights set the precedent that every individual worldwide has the right to seek asylum, yet of the nearly 146 states that are signatories to the 1967 Refugee Protocol, nearly all of them utilize their national asylum laws to supersede international ones, effectively undermining the refugee regime itself.⁵ Feller identifies this as failing both the guiding principles of defending global citizenry on the basis of five tenets: race, religion, nationality, membership in a particular social group or political opinion⁶ and the refugees themselves. As a result, when large groups of refugees inevitably do arrive to more stable states other than their own, that despite international law clearly enumerating their rights, states continually defer to nativist domestic laws which treat refugees as criminals.

The inherently 'securitized' approach is indicative of theoretical realism in international relations theory. When state authority believes that it has no responsibility to citizens other than the ones within the confine of their own territory, deferring instead to an anarchist world order, it exacerbates securitized treatment of global refugees.⁷ The domestic structural norms of states adhering to the rights of native citizenry over acknowledging the scope of refugee movements into one's nation has dire consequences. Yet other academics who defend these structural norms attempt to provide evidence that refugee groups create a complex tenet of society which some states cannot contend culturally, ethnically or otherwise. As nativist as some academic theory may be, it provides valuable insight into how and why states act against the interests of the global refugee regime.

One such scholar, Hans-Georg Betz, highlights this phenomenon stating, "movements that seek to preserve, restore or reconstruct selective aspects of native culture in reaction to a perceived external threat."⁸ In doing so, states subjugate the rights of refugees to the 'defense' of 'their' state's people. Such exclusionary language is well documented, indicative of how prevalent the issue is. Media sources from Europe to Africa are charged with aiding the social construct that refugees equal 'criminals' in dissemination of discriminatory print. This results in the common belief and support for the securitization of such groups.⁹ Georgios Karyotis draws a similar conclusion. He believes that the securitization of refugee groups in Greece specifically reflects the state's response to terrorism in similar fashion to America's after 9/11. The resulting securitization of Muslims and Muslim refugees in Greece is, therefore, directly correlated to the assumption that the two are intrinsically tied.¹⁰

Although IR scholars have decidedly drawn different conclusions into the origins, depth and contemporary significance of refugee groups, what is agreed upon is the impact that it has on state foreign affairs policies worldwide. One such scholar, Berna Turam focuses the attention onto how local residents in Greece feel about large-scale refugee camps being built on neighboring islands. Of her 35 interviews of local Greek

5 Erika Feller. "International Refugee Protection 50 years on: The Protection Challenges of the Past, Present and Future." *International Review of the Red Cross* 83, no. 843 (2001): Figure 1.2

6 "Detention (and Freedom of Movement) of Persons of Concern." UNHCR. <https://emergency.unhcr.org/entry/44484/detention-and-freedom-of-movement-of-persons-of-concern>.

7 Erika Feller. "International Refugee Protection 50 years on: The Protection Challenges of the Past, Present and Future." *International Review of the Red Cross* 83, no. 843 (2001): Figure 2.1

8 Hans-Georg Betz. "Nativism Across Time and Space." *Swiss Political Science Review* 23, no. 4 (2017): 335-353.

9 Hans-Georg Betz. "Nativism Across Time and Space." *Swiss Political Science Review* 23, no. 4 (2017): 335-353.

10 Georgios Karyotis. "Non-Traditional Security in Greece: Terrorism, Migration and Securitisation Theory." PhD diss., University of Edinburgh, 2007.

residents, 19 were primarily semi-structured (informal) and 16 ethnographic in nature.¹¹ The resulting sentiment reflected the nativist mass media portrayal that mirrored many residents' vocal opinion against refugee groups. For example, one of Berna's interviews was conducted with an NGO worker whose role was responsible for housing and the 'well-being' of refugees near Athens. When asked about the term 'sanctuary city,' the Greek NGO respondent, 'Evi' stated in defiance, "...it must be easier to welcome refugees, when they do not arrive at your doorstep on rubber boats in miserable conditions... Our response in Athens does not qualify as welcoming. It is simply about coping... about survival."¹² Turam identified key elements of realist IR theory as heavily influencing Greek sentiment of nativism in its defense of territorial sovereignty 'against foreign incursion.'¹³ Turam drew similar conclusions in her work regarding Greek sentiment to that of Islamophobic rhetoric in open public discourse in the United States, stating that 9/11 was, "historical turning point in defining a new era of securitization" and "enabled an unprecedented expansion of state, private, and supranational security practices, along with an amplification of the insecurities that accompany them."¹⁴

Similarly, Kenya's Dadaab refugee camp, whose situation is no less fragile, belies similarities to Greece's. The causal 'push' factor of war forcing refugees into Kenya from Somalia are identifiably the same as Syrian, Afghans, and Iraqi's fleeing the instability of their states into Greece, but the outcome is distinctly different in Kenya. The security situation in Greece is more publicized than internal refugee flows within the African continent due to its proximity to Europe, and as securitization of refugees is presented as being necessary to the defense of existential threats beyond control of state authorities in the EU.¹⁵ Nativist sentiment in Kenya, as scholar Edwin Abuya claims, is primarily based on ethnic and resource-scarce causal factors. Although Kenya's domestic legal framework included the 1973 Aliens Restriction Act and the Immigration Act of 1967, and even included language similar to the Refugee Convention, the policies fell short in adequately defining the protections for refugees once in Kenya.¹⁶ As Abuya's research highlights, Kenya's Dadaab Camp consistently does not allow refugees in because of overcrowding, resource shortages, and lack of proper security. However, there is coordination between the UNHCR providing the physical questionnaire forms, to providing routine checks on the basic infrastructural tenets of the sprawling complex.¹⁷ The cooperation between the UNHCR and Kenyan state authorities have considerably less control beyond the purview of the refugee camps, indicative of forces beyond the control of anyone state or institution.

The causal factors which prompt refugees to flee their homes is exacerbated by the UNHCR regime's inability to provide adequate physical protection to match its legal language. The securitization of refugee groups by state authorities has been exacerbated by media, popular culture and realist logic which sacrifices the well-being of refugee's

11 Berna Turam. "Refugees in Borderlands: Safe Places Versus Securitization in Athens, Greece." *Journal of Urban Affairs* (2021): 1-25.

12 Berna Turam. "Refugees in Borderlands: Safe Places Versus Securitization in Athens, Greece." *Journal of Urban Affairs* (2021): 1-25.

13 Hans-Georg Betz. "Nativism Across Time and Space." *Swiss Political Science Review* 23, no. 4 (2017): 335-353.

14 Lauren Martin. "Chapter 9." *The Wiley Blackwell Companion to Political Geography* (2015): 100.

15 Berna Turam. "Refugees in Borderlands: Safe Places Versus Securitization in Athens, Greece." *Journal of Urban Affairs* (2021): 1-25.

16 Edwin Odhiambo Abuya. "Past Reflections, Future Insights: African Asylum Law and Policy in Historical Perspective." In *Refugees and Rights*, pp. 439-484. Routledge, 2017.

17 Edwin Odhiambo Abuya. "Past Reflections, Future Insights: African Asylum Law and Policy in Historical Perspective." In *Refugees and Rights*, pp. 439-484. Routledge, 2017.

“rights of the individual” to the needs of state stability. As a result, the UNHCR’s ability to compel, control and demand change within the institutional order is limited. Therefore, effective structural and operational change by member states within the order commensurately curtailed.

SECURITIZED REFUGEES AT THE DADAAB CAMP

Somalia has struggled with internal war and poverty for the better part of its formally recognized existence. Most observers attribute the initial wave of Somalian refugees to the fall of the state’s civil infrastructure devolving into ethnic conflict eventually becoming a nearly lawless country. Hayley Mackinnon, representing the Center for International Governance Innovation (CIGI) notes that it owed partially to the collapse of Siad Barre’s regime in Somalia. Nearly two and half million Somali citizens to flee between 1991 and 2009 to Ethiopia, Djibouti and Kenya.¹⁸ The rapid influx of Somalians overwhelmed Kenyan infrastructure and resources needed to sustain the local population. One way in which the Kenyan state responded with legislated in favor of Kenyan farmers over refugees is that it has a ‘closed camp’ policy, that individuals are not allowed to enter without permission, nor leave once they enter. Kenya systematically denies agricultural and livestock access as Mackinnon highlights, “prevents refugees from owning cattle, cultivating, moving freely, working or integrating with the host community — renders the refugee population entirely dependent on humanitarian assistance and with very limited economic opportunities.”¹⁹

It is important to note that the UNHCR has only limited operational capabilities in Kenya. However, if signatory states signal their commitment to the defense of human rights violations on paper then actively subvert their refugee guests in practice, it undermines the efficacy of the regime itself. When Kenya denied Dadaab camp members access to cattle and adequate agricultural substance, the state acts conversely to the professed protections that the UNHCR regime promises. In turn, the entire regime is implicated in Kenya’s failures. Inferring that member states only operate within their best interests, even when their national security is not threatened. Furthermore, by denying Somalian refugees basic self-sustained food resources it exacerbates the social tension within the camp and prolongs miserable living conditions by environmental design. Meaning Kenya’s lack of proper care for refugees in Dadaab correlates to the length of time individuals are expected to stay there.

Scholars such as Edwin Abuya, who represents University of Nairobi, Kenya, note that Kenya was one of the first independent African states to enact laws protecting refugees in writing. The 1973 Aliens Restriction Act and the Immigration Act of 1967 protected rights of refugees there by emulating existing UNHCR regime legal language.²⁰ How does a nation that specifically maintains state legislated protection for refugees in reality delegate the full responsibility of housing, feeding, and maintenance of domestically situated camps to UNHCR and other NGOs? Abuya argues that Kenyan state securitization concerns supersede humanitarian ones, especially when the civil situation within neighboring Somalia still resembles an anarchic state which threatens Kenyan stability.

18 Hayley Mackinnon. “Education in Emergencies: The Case of the Dadaab Refugee Camps.” Center for International Governance Innovation 47. Pg. 1. (July 2014).

19 Hayley Mackinnon. “Education in Emergencies: The Case of the Dadaab Refugee Camps.” Center for International Governance Innovation 47. Pg. 3 (July 2014).

20 Edwin Odhiambo Abuya. “Past Reflections, Future Insights: African Asylum Law and Policy in Historical Perspective.” In *Refugees and Rights*, pp. 439-484. Routledge, 2017. Pg. 447 (Original Pg. 59)

According to Human Rights Watch, Somali civilians are fleeing violence orchestrated by the terror group Al-Shabab which controls vast rural areas of Somalia for the last decade.²¹ Between the length of armed conflict in Somalia and acknowledging geopolitical threats outside the purview of UNHCR missions, Kenya's state considerations make a difficult case for Somali refugees to find a permanent home. Abuya believes that the state's strengthening of legal protections for refugees was ultimately influenced by existing international human rights treaties.²² The Kenyan government can do little to curb the violence from which refugee groups are fleeing. The protracted humanitarian mission in Kenya is directly caused by the neighboring armed conflict from the government's perspective justifying Kenya's securitization of Somali refugees. However, as the Kenyan government takes what it believes to be a justified step in protecting its citizens it further influences host hostility sentiment towards those supposedly protected groups. The result is both unfiltered local animosities, and a lack of feasible interoperability between the Kenyan government and UNHCR in finding viable solutions for the longest held Somali camp inhabitants.

However, adequate solutions cannot be the sole responsibility of neighboring nations of conflict zones. Investigating how the UNHCR's legal language regarding how the "country of first asylum" is exploited to stem migration rather than allow for safe passage could influence meaningful debate and enact better legal protection for refugees. Re-interpreting Article 26 of the Refugee Convention, 'Movement of Freedom,'²³ which is considered the legal loophole for the 'country of first asylum' claim, could potentially ease the backlog of Somali refugees in Dadaab. Doing so would disperse responsibility over member nations rather than primarily neighboring ones. Although bureaucratically unlikely, academics suggest new considerations are necessary to change the current reality in Dadaab and surrounding camp complex. When member states pawn legal responsibility to others it undermines the efficacy of the entire UNHCR regime.

LIMITS OF INTERNATIONAL LAW IN THE MORIA CAMP

Another pertinent example of how the securitization of refugee groups have undermined the outlined legal structure of the 1967 Refugee Protocol is in Greece. Specifically an island off the mainland called Lesbos where a refugee camp called Moria consisting primarily of refugees fleeing the civil war in Syria had taken refuge. Syrian families fled levels of unfathomable violence initiated by a mixture of religious sectarian conflict and terror groups coupled with a violent oppressive regime under President Bashar al-Assad, resulting in nearly 6.6 million externally displaced refugees since 2011.²⁴ The lack of international willingness has led to camps that are overwhelmed and understaffed. Sarah Leonard and Christian Kaunert, authors of *Refugees, Security, and the European Union*, note that Greece had been the first EU country of arrival in 2015, but that it quickly became merely a transit point for refugees moving through "Balkan countries towards Northern European countries, mainly Germany and Sweden."²⁵ The Greek state

21 Birgit Schwarz. Human Rights Watch. *Nothing to Go Back to - From Kenya's Refugee Camp*. 2016.

22 Edwin Odhiambo Abuya. "Past Reflections, Future Insights: African Asylum Law and Policy in Historical Perspective." In *Refugees and Rights*, pp. 439-484. Routledge, 2017. Pg. 447

23 "Detention (and Freedom of Movement) of Persons of Concern." UNHCR. <https://emergency.unhcr.org/entry/44484/detention-and-freedom-of-movement-of-persons-of-concern>.

24 "Syria Emergency." UNHCR. Last modified March 15, 2021. <https://www.unhcr.org/en-us/syria-emergency.html>.

25 Sarah Léonard and Christian Kaunert. *Refugees, Security and the European Union*. Routledge 2019. Pg. 147

responded by deferring to its geopolitical responsibilities of the European Union over the Refugee Protocol by preventing the physical movement of refugees out of Greece.

Legally Greece's actions are within the realm of established protocol, however, its treatment and securitization of refugees within its borders is not. Greece's foreign policy response to the influx of Syrian, Libyan, Afghani, and Iraqi refugees was legislatively opposite of German Chancellor Angela Merkel's administration's decision that, "Germany decided to use the derogation possibility of Article 17 of the Dublin III Regulation for humanitarian reasons – which quickly came to be described as 'a unilateral open-arms policy'."²⁶ The unintended result was that European states like Greece inevitably became the first country of migration for many refugees from Africa or the Middle East. Greece's unprepared natural resources were at a time of national debt crisis which exacerbated nativist fear of the host nation. This in turn helped fuel the securitization of refugees already in Moria along those continuing to arrive daily.

The discrepancy between the UNHCR regime's clearly enumerated rights for refugees is stifled by its signatory state's prison-like approach toward containment, implicit of Moria Camp. A leading securitization theorist, Ole Wæver, believes that state securitization of refugee groups relies on an existential threat to stability.²⁷ With its use of inward-facing barbed wire fences, cameras, coupled to labyrinths of tall concrete walls, Moria does not resemble a refugee camp by any means. Rather, the infrastructure is an overt mirror of the physical and social securitization that encompasses host hostility toward refugee populations. Despite the existence of the Refugee Protocol, as government legislation followed public xenophobic outcry, authors Foteini Asderaki and Markozani Eleftheria state, "it is the recent refugee crisis (2013-2017) that provoked the accentuation of the securitization of European speech on irregular migration."²⁸ The unintended consequence of the lack of preparedness for large-scale refugee movements into the European Union has resulted in host treatment more closely related to former combatants rather than legitimate refugees. Moria is indicative of how the majority of Greek society, and indeed the rest of the European Union have responded to the influx.

Scholar Georgios Karyotis, of the University of Edinburgh, draws a different conclusion of Greece's primary foreign policy regarding refugees stating that, "cooperation in Justice and Home Affairs issues and European norms have a direct impact on domestic policies."²⁹ Multinational European legislation and action regarding refugee groups is necessary to find human solutions to common challenges. Karyotis draws a correlation between the collective power and sentiment of the EU as being responsible for pressuring Greece. Nativist EU institutional and socio-political influence the Morian environment to resemble containment and securitization of incoming refugees. Lack of adequate cooperation between multinational states and the UNHCR regime prevent grounds for equitable 'durable solutions.' Greece negotiates the collective rights of tens of thousands of refugees in Moria yet are constrained by the geopolitical reality of the securitization of primarily Muslim refugees from the Middle East into the rest of Europe.

Another scholar, Burna Turam, highlights a migrant worker's perspective from a 'safe haven' town within Greece, who stated that, "when people grow fearful of refugees committing crimes, stealing jobs, being potential terrorists, and so on, all refugees are

26 Sarah Léonard and Christian Kaunert. *Refugees, Security and the European Union*. Routledge 2019. Pg. 148

27 Foteini Asderaki and Eleftheria Markozani. "The Securitization of Migration and the 2015 Refugee Crisis: From Words to Actions." In *The New Eastern Mediterranean Transformed* pp. 179-198. Springer Cham 2021.

28 Foteini Asderaki and Eleftheria Markozani. "The Securitization of Migration and the 2015 Refugee Crisis: From Words to Actions." In *The New Eastern Mediterranean Transformed* pp. 179-198. Springer Cham 2021.

29 Georgios Karyotis. "Non-Traditional Security in Greece: Terrorism, Migration and Securitisation Theory." PhD diss. University of Edinburgh 2007.

relegated to a state of constant agony due to exclusion and hostility. This agony adds on top of the refugees' fear of deportation.³⁰ Between being seen as external security threats in camps, and cast into lower socio-economic positions within Greece, refugees are discriminated against to the point of affecting personal perception of one's worth. The overarching legislative and social determination to keep refugees from reaching other member EU states from Greece is a driving force behind Moria's explicitly inhumane circumstances. This results in refugee camps whose infrastructure far outweigh their population and purpose.

Moria's neglect came to a tipping point when in September 2020, a large fire decimated the entire camp, rendering nearly 13,000 refugees homeless.³¹ The event was indicative of the securitization process which put state security over adequate living conditions for refugees which brought attention to both Greek mistreatment, and international neglect of the issue altogether. Furthermore, as scholar Alison Sholar points to, "Securitization is about identity as a unit and, as a corollary, exclusion."³² In this case, in the defense of the Greek identity as a sovereign state, and more generally as a member of the EU. Identity condemns the most hard-lined nativist perspective in Greek foreign policy to be exclusive to the needs of their citizens, rather than the well-being of refugees. 'Quota-based' solutions, rather than 'human-based' solutions are endemic of a civil society unwilling to handle the scope and seriousness of the issue.

Conclusion, one of the primary universal state responses to large groups of refugees, asylum seekers, or political refugees is to defer to nativist inclinations of protectionist policies rather than employing civil and nongovernmental aid. Observationally it is indicative of both institutional and individual failures in adequately addressing the fallout from failed foreign policy goals. Scholars such as Jonathan Swarts and Neovi Karakasanis point to Greek's social sentiment toward refugees stating, "Over the course of the decade, Greek public opinion and elite rhetoric were clearly characterized by a sense of danger and threat, both to Greek national culture as well as to individuals' own personal security."³³ Similarly to Dadaab Camp in Kenya where local opposition there derailed any hopes of the naturalization process with Somalia's neighbor. The only outcome for refugees then, is a life in limbo. Waiting for help that may never come. Instead, as scholars Jennifer Hyndman and Wenona Giles write, "Powerful actors engage in international securitization by focusing on process rather than on any material conditions of threats, such as the military readiness or capability of another political faction."³⁴ The reflective response by states towards refugee groups is indicative of nativist inclinations and lack of viable solutions on a global scale. Until signatory members of the Refugee Protocol prove their commitment to refuge groups, their actions are unbecoming of the moral obligation set forth in the legal language of the document. The selective process of states relishing immigration of some refuge groups while overtly denying others, act contrary to the purpose and importance of the regime, and to those who it so desperately needs to serve. Lastly, as scholar Somdeep Sen writes,

30 Berna Turam. "Refugees in Borderlands: Safe Places Versus Securitization in Athens, Greece." *Journal of Urban Affairs* (2021): 1-25.

31 Adriana Tidona. "Greece/EU: Fire Destroys Moria Leaving 12,500 People Without Shelter." *Amnesty International*. Last modified September 9, 2020. <https://www.amnesty.org/en/latest/press-release/2020/09/greece-eu-fire-destroys-moria-leaving-12500-people-without-shelter/>.

32 Alison Gerard. *The Securitization of Migration and Refugee Women*. Routledge, 2014. Pg. 41

33 Jonathan Swarts, and Neovi M. Karakatsanis. "The Securitization of Migration: Greece in the 1990s." *Journal of Balkan and Near Eastern Studies* 14, no. 1 (2012): 33-51.

34 Jennifer Hyndman and Wenona Giles. *Refugees in Extended Exile: Living on the Edge*. Routledge, 2016. Pg. 31

“We are academics’, many say, and not activists. Therefore, our responsibility is not to evoke shock, awe or sympathy but simply explain and problematize.”³⁵ Between the combination of emotional, legal and personal indifference that global refugees face, we must acknowledge a manmade crisis in which the primary failure is a moral obligation to fellow mankind.

35 Michelle Pace, and Somdeep Sen, eds. *Syrian Refugee Children in the Middle East and Europe: Integrating the Young and Exiled*. Routledge, 2018. Pg. 101

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