The Yale Review of International Studies
Table of Contents • Acheson Prize Issue 2019

Staff

Dear Reader,

You might notice that we look a little different. Welcome to the brand new YRIS redesign, arriving just in time for my favorite issue of the year: the Acheson Prize Issue.

In this issue, we have printed the creme de la creme of Yale undergraduate scholarship on international issues. From the most competitive pool of submissions yet, our editors selected the five most standout works and sent them on to our illustrious panel of faculty judges so they could deliberate on the final allocations of the Acheson Prize amounts.

This year has been an amazing time to be a part of YRIS, and I can't believe that it's already the last print issue of my year as YRIS Editor-in-Chief. This publication has meant so much to me since I was a first year, and it will be hard letting go. I have a lot of faith in my successors — Qusay Omran and Jake Mezey — to carry on with zest a lot of the innovations and growth that we set into motion this year. I am so glad that we have such a large and vibrant YRIS family now.

Ultimately, the unprecedented expansion of YRIS this year would have not been possible without the support of my talented fellow leadership as well as the Yale International Relations Association as a whole. Getting to be a part of the YIRA ecosystem was the icing on the cake. Here's three cheers for many more years of the Yale Review of International Studies!

Signing off,
Elisabeth Siegel

JORDAN FARENHEM

NOORA REFFAT

ROSA SHAPIRO-THOMPSON

ORIANA TANG

TRINH TRUONG

Essays

Rosa Shapiro-Thompson
First Place

Importing Arms, Exporting the Revolution

Mehdi Hashemi and His Fatal Leak to *Ash-Shiraa*

T he story that broke in the small Lebanese weekly, *Ash-Shiraa*, on November 3, 1986, led to the exposure of a tangled story of secret arms deals and deceptions.

The story that broke in the small Lebanese weekly, Ash-Shiraa, on November 3, 1986, led to the exposure of a tangled story of secret arms deals and deceptions. It involved Israeli encouragement, Iranian money, Lebanese hostages, and US missiles. Arms dealers with Pahlavi-era connections initiated the sale of US-made missiles to the Islamic Republic of Iran to be deployed against Iraq. By November, the story was already beginning to take shape. In October, pamphlets had circulated in Tehran warning vaguely of deals with the "Americans or Europeans,"[1] and meanwhile, a CIA cargo plane had crashed in Nicaragua.[2] These two operations, continents apart, relied on each other: the United States, under the direction of the National Security Council's Oliver North,

---

1   Ulrich Von Schwerin, "Mehdi Hashemi and the Iran-Contra Affair," British Journal of Middle East Studies, 534

2   Malcolm Byrne, *Iran-Contra: Reagan's Scandal and The Unchecked Abuse of Presidential Power,* (Lawrence, Kansas: Kansas University Press, 2014), 1.

had begun to divert funds from the secret arms sales to Iran in order to fund the Contras, a rightist rebel group in Nicaragua, thus bypassing a Congressional ban. But although the leaflets and crash began to threaten the secrecy of the affair, it was only because of Ash-Shiraa's account of former National Security Advisor Robert McFarlane's visit to Tehran that the story made global headlines and forced politicians to confirm the conspiracy to the public.

This paper investigates the remarkable transnational story of the Ash-Shiraa leak and its principal character, Seyyed Mehdi Hashemi. Mehdi Hashemi, a close associate of Ayatollah Hussein Ali Montazeri (then designated as Ayatollah Khomeini's successor), led efforts to export the ideology of the Iranian revolution to other Muslim countries before his arrest in 1986 and subsequent execution a year later. This paper first places the Ash-Shiraa leak within the context of internal political struggles between factions hoping to export the revolution and those aiming to procure US-manufactured arms for the war underway against Iraq. Second, it presents a brief overview of how the various arms deals were conducted. Third, the paper draws attention to factual points of disagreement regarding how and when Hashemi and his followers came to know of McFarlane's visit as well as how and why Hashemi was arrested. While misinformation has insinuated itself into English-language scholarship on the affair, primary sources help place the leak within the factional politics of the time and suggest it must be interpreted as a retaliation for Hashemi's arrest. Lastly, this paper explores how the story in Ash-Shiraa shaped the impact of the arms deals over the long-term. The affair, aside from precluding any rapprochement between the United States and the Islamic Republic, contributed to the consolidation of Ali Akbar Rafsanjani's power as Speaker of the Majles and to the fall of Montazeri. Montazeri's fall, in turn, had lasting consequences on the leadership and politics of Iran over the following three decades.[3]

Factional Politics of the Early Islamic Republic

Mehdi Hashemi, the principal character of Ash-Shiraa's story, was born in 1944 in the small town of Qohdarijan.[4] His family of respected clerics was closely connected to the Montazeri family, both by marriage and through the religious seminary of Isfahan.[5] Mohammed Montazeri became a close friend of Hashemi and his brother Hadi as students in the seminaries of Qom. They all became involved in the struggle against the Shah's regime. Like many students, Hashemi turned to violent tactics in the face of the Shah's repression: he went so far as to commit vigilante murders against suspected homosexuals, prostitutes, and drug traffickers. He even allegedly killed an orthodox cleric who had criticized the elder Montazeri, Mohammed's father, for his radical interpretations of the Qur'an.[6] For this, SAVAK arrested and imprisoned Hashemi. In the words of historian Ervand Abrahamian, upon the victory of the revolution Hashemi emerged from the Shah's prisons in 1979 a "religious hero."[7] He was understood as

---

3   Nikki Keddie, *Modern Iran*, (New Haven, 2006), 260-262.
4   Von Schwerin, "Mehdi Hashemi," 522.
5   Ibid; Byrne, 253.
6   Ervand Abrahamian, *Tortured Confessions*, (University of California Berkeley, 1999), 162; Von Schwerin, "Mehdi Hashemi," 522.
7   Abrahamian, *Tortured Confessions*, 162-163.

deeply committed to Khomeini's vision of the revolution, despite his often-controversial tactics.

The revolution victorious, Hashemi established several armed groups that sought local control of his hometown and the nearby Najafabad and Isfahan, while Mohammed Montazeri set up a group to spread the revolution to other Muslim countries.[8] Hashemi was also appointed to the central command and the ideological committee of the newly founded Islamic Revolutionary Guards Corps, or the Pasdaran, a coalition of the revolution's paramilitary groups brought together to counterbalance the less-ideologically driven army. Together, Mohammed and Hashemi set up a short-lived organization, Satja, to export the revolution by supporting Islamist movements abroad with which Mohammed had cultivated ties while in exile. According to Ash-Shiraa, the organization was disbanded as it "conflicted with the concept of the state."[9] Though the elder Montazeri was at times forced to distance himself from his son's scandalously extremist politics, he, too, sought the export of the revolution more than the pragmatist government

Figure 1: Ash-Shiraa cover, 3 November 1986.

and supported Hashemi and his son's goals. "If our Muslim brethren in Afghanistan, in Palestine, in Lebanon and in any other place are involved with the superpowers and invaders, we are involved because we are the Afghans' brethren," Montazeri preached in 1980. "Wars against our brethren […] are wars against us."[10] Montazeri supported his son and Hashemi in setting up an organization within the Revolutionary Guards to "organize ideological training and material support" for other revolutionary Islamist movements. While Mohammed initially led this Office for Islamic Liberation Movements (OILM), Hashemi soon took control after Mohammed's assassination in 1981 and ran the organization out of Ayatollah Montazeri's office in Qom. Montazeri would regularly ask his followers at Friday prayers to donate

---

8   Von Schwerin, "Mehdi Hashemi," 522.
9   Sabra, Hassan, "This is What Happened in Tehran," *Ash-Shiraa,* Foreign Broadcast Information Services, 3 November 1986.
10   Von Schwerin, "Mehdi Hashemi," 522. Quoting Mostafa Izadi's *Extracts from Speeches of Ayatollah Montazeri* (Tehran: Islamic Propagation Organization, 1984), p35.

a day's wages to liberation struggles abroad, which he then channeled to Hashemi at OILM.[11] Montazeri was a powerful official boasting strong ties to Khomeini himself: Khomeini was his "long-time friend and mentor" and in 1985 a committee of expert clerics designated Montazeri as Ayatollah Khomeini's successor, faqih of the Islamic Republic.[12]

Hashemi and Montazeri were part of the early Islamic Republic's factional politics, which emerged as the radical clerical forces of Khomeini consolidated their power. The 444-day hostage crisis that had ended in January of 1981, in particular, had strengthened the most radical elements of the revolution. Khomeinists built new institutions while liquidating the opposition.[13] Yet although Khomeinists came to dominate all the institutions they built, as historian Nikki Keddie writes, "[they] were not unanimous in their views and had autonomous leaders in several powerful institutions, some of them elected. Iran never became a dictatorship but always had a complex variety of power centers."[14] Although alliances shifted over time, these factions loosely consisted of the Islamic Left, the Conservatives (or Islamic Right), and the Pragmatists (or Modern Right).[15] Khomeini often chose not to engage directly in policy-making, but rather would mediate debates and decide whom to support.

According to Ash-Shiraa, these debates over foreign policy concerned the very nature of the Islamic Republic and the revolution itself: was Iran to exist as a bastion of revolution, supporting Islamist groups throughout the Muslim world in their anti-imperial liberation struggles, or was it to function as a state, and keep its revolution within its borders? To draw on Soviet terminology, Hashemi and Montazeri's faction advocated for a Trotskyite state of permanent revolution. The foreign policy pragmatists accepted Islamic governance in just one country. According to the Ash-Shiraa story, Mohammad Montazeri was indeed known as the "Trotsky of the Iranian revolution."[16] Ash-Shiraa frames the struggle between advocates of permanent revolution and advocates of pragmatism as an existential one between two dialectical ideologies. Above the sensational headline, "This is what happened in Tehran," the cover shows Montazeri on the left, mid-speech and righteously angry, while Rafsanjani on the right looks unsure, or perhaps apologetic. Both leaders stand crudely superimposed above the revolutionary crowd and between them the subheading reads "the mindset of the state and the mindset of the revolution."[17] [See Figure 1]. This oppositional positioning of Montazeri and Rafsanjani was an accurate portrayal not only of their immediate struggle for political influence but also of their ideologies.

Permanent revolution, on the one hand, looked beyond the borders of Iran and towards continuing the revolution's anti-imperial work in Afghanistan, Lebanon, Palestine, and the Gulf monarchies. In practice it entailed providing both ideological and material support to Islamist

---

11   Von Schwerin, *The Dissident Mullah,* (London, 2015).
12   Ibid, 521.
13   Mohsen M. Milani, "Hostage Crisis," *Encyclopaedia Iranica.* 14 December 2004. Vol. XII, Fasc. 5, pp. 522-535.

14   Keddie, *Modern Iran,* p242
15   Keddie, *Modern Iran,* p255; Mark Gasiorowski quoted in Blight's *Becoming Enemies,* p130.
16   Sabra, "This is what happened in Tehran."
17   Sabra, "This is what happened in Tehran," cover.

groups. On the other hand, acting as a bounded state led to a pragmatic foreign policy that necessitated disregarding the anti-American, anti-imperial rhetoric of the revolution. Mohammed Montazeri and Hashemi saw the 1979 revolution and their subsequent work as part of the "wider fight of the Third World countries against imperialism and US hegemony," writes historian Ulrich von Schwerin.[18] In contrast, the pragmatists, rather than eschewing contact with the United States, moved beyond Khomeini's epithet of the "Great Satan," which characterized the United States as an evil "other" corrupting the pure Islamic body politic.[19] They solicited arms from the Great Satan itself.

Contingencies of War and Arms Exchanged

The contingencies of the war against Iraq entailed an immediate need for weapons that the pragmatists recognized. Iran's supply of US-made weapons left over from the extensive, multi-billion-dollar arms deals between the United States and the Pahlavis, was being rapidly depleted.[20] As the war dragged on, historian Malcolm Byrne accounts, Iran became "increasingly desperate" to replenish its arsenal, seeking both spare parts and new weapons."[21] Not only had the United States begun providing crucial intelligence support to Iraq out of fear of an Iranian victory and the potential spread of the revolution, but beginning in 1983 the State Department had also actively discouraged other countries from supplying arms to Iran. Hard-pressed for military hardware, Iran had to seek weapons covertly on the international black market. Private arms dealers sought lucrative financial opportunities and many states ignored the prohibition. Among other examples, twenty-five US F-5 fighter jets officially intended for Turkey landed in Iran.[22]

Despite US disapproval, Israel became a primary supplier of weapons to the early Islamic Republic in its war with Iraq. "Khomeini was not a friend," a former Israeli general explained, "but Saddam Hussein was our enemy."[23] In selling arms, Israelis not only sought to ensure that the balance of power would not tilt further toward the Arab states but also hoped to gain leverage over Iranian policy towards its 60,000 Jews. Congressional reports brushed over Israeli's crucial role when the scandal broke.[24] Although this tendency to disregard Israeli involvement insinuated itself into subsequent scholarship, Tel Aviv had for years pressured the United States to join in its weapons sales to Tehran. The United States refused to join in or officially sanction Israel's policies until 1984, when the hostage crisis in Lebanon escalated; Shiite militant groups with close ties to Hashemi's group had abducted a number of Westerners. The Reagan administration then gave into Israeli pressure and itself shipped weapons to Tehran in August of 1985.

Over the course of the next fourteen months, the United States secretly sold over 2,500 missiles to Iran, as well as various spare parts. But the miscommunications and misunderstandings proved too great to allow for a successful arms-for-hostage deal, let alone a meaningful rapprochement

---

18   Von Schwerin, p523.
19   Amanat, "Khomeini's Great Satan: Demonizing the American Other."
20   McClinchey, *US Arms Policies Towards the Shah's Iran.*
21   Byrne, 34.
22   Byrne, 30-34.
23   Byrne, 35.
24   Byrne, 306; Segev, *The Iranian Triangle.*

"

BUT WITHOUT HASH-EMI'S STORY, THE HISTORY IS INCOMPLETE AND THE AGENCY OF IRANIANS AND THE DYNAMIC POLITICS OF THE TIME MORE EASILY FORGOTTEN.

between the two hostile states. The Ash-Shiraa leak put the final nail in the coffin. On the United States side, the deals were fraught with deception and flagrant contraventions of Congress and the Judiciary. In selling weapons to Tehran, a designated state-sponsor of terrorism, Robert McFarlane and Oliver North of Reagan's National Security Council knowingly violated the U.S. Arms Control Export Act as well as the stated policy against selling arms for hostages. Furthermore, Congress had also banned any material support to the Nicaraguan Contras.[25] Meanwhile, the middleman, arms dealer Manucher Ghorbanifar, promised more to each side than either was willing to give. Frustration and distrust ensued on both sides. In May of 1986, McFarlane brought a delegation to visit Tehran to engage in direct talks. Speaking directly for the first time, McFarlane met with the chair of the Majles Foreign Affairs Committee and foreign policy advisor to Rafsanjani, Dr. Ali Hadi Najafabadi.[26] The Iranians felt rightly mistreated by the exorbitant prices they had paid to keep their side of the deal, while the United States was frustrated that the Iranians managed to free only one hostage in Lebanon.[27] It quickly became clear that Iran could not control the hostage-takers—or at least, Rafsanjani's group of pragmatists with which they were dealing could not. When Hashemi's group learned of McFarlane's visit, and later publicized it, the revelation quickly brought a harsh end to the deals and any efforts towards a rapprochement.

Hashemi's Leak: Breaking News from Beirut

The history of the leak itself is under-examined, and the circumstances surrounding both Hashemi's discovery of McFarlane's visit and his subsequent arrest remain mysterious. This silence is surprising given the international and domestic importance of the exposure. The leak not only precluded any rapprochement between the two countries but also provoked major political problems in both Iran and the United States. Investigating these unresolved pieces, and answering them to the extent that the sources allow, places the leak deeper within the Montazeri–Rafsanjani factional struggle. The pragmatists had long sought to curb Hashemi's radical activities when they came into conflict with state policy. When they eventually arrested Hashemi, he and Montazeri's faction exposed the arms deals in retaliation.

There are various narratives regarding how Montazeri and Hashemi learned of McFarlane's visit. Presumably, they knew of the pressure to free the hostages that their allies within Islamic Jihad in Lebanon were facing from Tehran, and they likely disproved of this shift in policy as a betrayal of the revolution internationally.[28] Yet it is unlikely that the hostage-takers themselves would have known of any potential or real arms deals. One account suggests that Hashemi's group came to know of McFarlane's visit via the Revolutionary Guards at the airport. Another indicates that Montazeri found out months later through letters written by Ghorbanifar after officials

---

25   Byrne, 77-79.
26   Byrne, 196. Although Najafabadi was the highest-ranking official that McFarlane spoke with, according to Albert Hakim, Fereidun Mehdinejad, head/deputy head of intelligence for IRGC, was the main manager of the deals from the Iranian side. He was presented as "Ali Samii." Another official was presented as "First Deputy Prime Minister Mustafavi." Mohsen Kangarlou, aide to Prime Minister Mir-Hussein Mousavi. Byrne, 96.
27   Byrne, 59.
28   Sick, "Iran's Quest for Superpower Status," *Foreign Affairs,* Spring 1987.

discovered his deception and excluded him from further negotiations. The Ash-Shiraa article itself is silent on the subject.

The first version of Hashemi's discovery of McFarlane's visit, written by professor and journalist Gary Sick in the months following the Ash-Shiraa leak, contends that "Hashemi had evidently learned of the McFarlane visit after the American visitors, left waiting at the airport, finally identified themselves to officials who turned out to be Revolutionary Guards."[29] But in fact, as early as 1982 the Majles had moved to curb Hashemi's power and by 1985 Hashemi had been forced out of his seat on the central command of the Revolutionary Guards.[30] He was no longer affiliated with any official institution, and only working independently out of Montazeri's offices in

Figure 2. Young Mehdi Hashemi.

Qom.[31] Hashemi, then, would not necessarily have learned of the visit from the Guards. This account relies on Sick's assumption that Hashemi must have known all along. When requested for comment, Sick responded that Mehdi Hashemi "was a true insider in the more radical elements of the revolutionary elite, and the story of the McFarlane visit was known to quite a few people—from airport guards to the highest levels of the [Islamic Republic of Iran] leadership."[32] Yet the political landscape of the time quickly discredits the wisdom of Sick's assumption that if Rafsanjani and Khomeini approved the deals, Montazeri and Hashemi knew of them, too. Rather, the deals were a closely guarded secret, and the officials involved understood the potential for severe political repercussions. As McFarlane reported after his visit, the Iranian officials "still [could not] overcome their more immediate problem of how to talk to us and stay alive."[33] The Iranians would have tread with caution and preserved secrecy to the greatest extent possible. Although Sick's account is not entirely impossible, it is not fully convincing. Sick goes on to write that the Guards "later attempted to kidnap McFarlane and his party, but were thwarted by forces loyal to Rafsanjani." Although other accounts indeed corroborate the presence of the Revolutionary Guards at the airport—Byrne notes that they ate a cake intended as a gift for Iranian officials—there is no

---

29   Sick, "Iran's Quest."
30   Sabra, "This is What Happened," translated by the Foreign Broadcast Information Services.
31   Sabra, "This is What Happened"; Von Schwerin, "Mehdi Hashemi," 527.
32   Interview with author, 2 May 2017.
33   Byrne, 199.

record of any kidnapping.[34] Moreover, Sick did not recall the sources for the kidnapping story or manage to find them in his records.[35]

Since Sick's article, more information has come to light in Montazeri's now-published memoirs. Drawing on these memoirs, Ulrich Von Schwerin, a German reporter on Iran who has produced substantial scholarship on both Hashemi and Montazeri, relays a second, more convincing account: Montazeri did not know of the deals until July or August when he received a desperate letter from Ghorbanifar.[36] After McFarlane's visit to Tehran, a new channel was established through Rafsanjani's nephew, Ali Hashemi, replacing the deceptive Ghorbanifar. Ghorbanifar then faced "unpaid bills allegedly going into the millions" and became increasingly desperate to restore his place in the negotiations.[37] In July of 1986, he first wrote a letter to the officials managing the deals.[38] When that attempt failed, he forwarded copies to Montazeri and other more radical figures outside of the pragmatist faction.[39] Ghorbanifar understood the factional politics at play and sought to exploit them, understanding the power of the information that he held and from whom it had been kept.

Figure 3: Screenshot of Hashemi's televised confession, 1987

Von Schwerin's story proves convincing. It is clear that Montazeri did not know of the deals until receiving this letter in July or August: upon receiving Ghorbanifar's letter, he was both "alarmed that he had not been informed about the negotiations" and "scandalized that Iran should fight its Muslim brothers in Iraq with Israeli weapons." Although he did not on principle oppose negotiating with the United States, he was wary of the deals since he suspected that the United States was more interested in prolonging the war than in either helping the Iranians or reaching a rapprochement.[40] Later scholarship supports this view.[41] Moreover, Rafsanjani and Khomeini's son, Ahmad, were "much displeased that he had learnt about the matter."[42] These sources present the deals a closely

---

34   Ibid, 195. Here Byrne cites an interview with the former Iranian deputy foreign minister, whom he does not name. Though the Foreign Minister at the time was Ali Akbar Velayati, Byrne attempts to maintain anonymity of this official interviewed.

35   Interview with author, 2 May 2017. Professor Sick, though unable to find the source in his records, suggested it could have been during the Iran-Contra hearings. Although I did search the records, my access to transcripts of the hearings was limited and I did not watch tapes of each hearing.

36   Von Schwerin, *The Dissident Mullah;* "Mehdi Hashemi and The Iran-Contra Affair," 98.

37   Von Schwerin, "Mehdi Hashemi," 531

38   Ibid.

39   Ibid, 523. In particular, Ghorbanifar sent a copy of the letter to revolutionary judge Hojatoleslam Fatollah Omid-Najafabadi, whom he knew from before the revolution, in order to get the letter to Montazeri. Omid-Najafabadi was ultimately executed along with Hashemi and others in 1987 for his dissenting views and activities.

40   Von Schwerin, *The Dissident Mullah, 98.*

41   Jones, "America, Oil, and War in the Middle East," *Journal of American History,* 2012. Jones writes that "While the United States claimed to have been caught off guard by Iraq's invasion of Iran, many U.S. policy makers came to see a continuation of the war as a useful way to bog down two of the region's most highly militarized regimes and to stave off short-term threats to the regional order and the political economy of oil."

42   Ibid.

guarded secret that the pragmatists did not intend Montazeri to know.[43] This account, then, leads us to see the Ash-Shiraa leak as a carefully calculated political move by Montazeri's faction. The leak was neither an isolated incident nor a knee-jerk ideological reaction to deals with the United States. Rather, his arrest and the subsequent Ash-Shiraa leak are part of a much longer story of the consolidation of power and the regime's desire to curb Hashemi's activities.

The Ash-Shiraa story itself also supports such a reading. The article does not focus on McFarlane's visit as the core of the story, or even the arms deals themselves—it is as if the editor, Hassan Sabra, could not grasp the significance of the exposure or its potential to provoke scandal.[44] Rather, Sabra tells of the dialectical, ideological struggle between the revolution and the state, and then focuses primarily on a sometimes-erroneous account of Hashemi's revolutionary activities, his arrest, and the accusations of the regime against him. To Sabra, the story of McFarlane's visit was important as part of "a power struggle such as takes place in most regimes in the world," which the pragmatists resolved by removing Hashemi, a "former participant in the government and decision-making turned overnight into a traitor deserving execution."[45]

An ally of Hashemi, Montazeri, and Hezbollah, Sabra's politics seep into his writing: Sabra lauds Hashemi as truly "living the revolution" and acting "in accordance with religious teachings," while he describes McFarlane as trying to stop Tehran from "supporting liberation movements in the world on the pretext that they are terrorist movements." Ash-Shiraa defends Hashemi against the charges for his arrest: smuggling arms to Jeddah and kidnapping the Syrian chargé d'affairs. In this account, Hashemi was arrested because his commitment to international revolution now conflicted with the state. The timeline supports this story. Hashemi was arrested October 9th, whereas the initial distribution leaflets throughout the city that condemned "leaders who have had contacts with the US and who have negotiated with American representatives" took place afterward, in mid-October.[46] The exposure followed the arrest rather than the other way around. Indeed, it is shocking that so many casual references to the affair subsequently reported that Hashemi was arrested because of this leak: the Ash-Shiraa article clearly states that Hashemi is already in prison.[47]

Hashemi's actions as an international revolutionary were increasingly coming into conflict with state interests and had begun to prove a liability for the regime. Beyond the OILM's role in training the Shiite militants who came to form Hezbollah, the Office, or Hashemi in his personal capacity, was also involved in a coup attempt in Bahrain, in abductions and attacks on embassies in Kuwait, in smuggling arms to Saudi Arabia during hajj, and in kidnapping the Syrian chargé d'affairs when visiting Tehran.[48] These all provoked unpleasant diplomatic backlash for the regime. The hajj smuggling in early August, in particular, led to a direct crack down. Under Reyshahri, the Ministry of Intelligence raided the OILM's training

---

43 Abrahamian, *Tortured Confessions.*
44 Segev, *The Iranian Triangle.*
45 Sabra, "This is What Happened," *Ash-Shiraa,* Foreign Broadcast Information Services translation.
46 Segev, *The Iranian Triangle,* 284.
47 Ibid.
48 Keddie; *Ash-Shiraa;* Byrne, 252; Von Schwerin, 526, 532; *Ash-Shiraa,* p5.

camps in Isfahan and arrested a number of leaders, seeking also to weaken Montazeri's power base. As Von Schwerin writes, Hashemi's arrest soon after should be read as not just as part of the struggle between the export of the revolution and the formation of a pragmatic state policy, but also a part of "an attempt by Ahmed Khomeini, Rafsanjani and the Minister of

"HASHEMI IN HIS PERSONAL CAPACITY, WAS ALSO INVOLVED IN A COUP ATTEMPT IN BAHRAIN, IN ABDUCTIONS AND ATTACKS ON EMBASSIES IN KUWAIT, IN SMUGGLING ARMS TO SAUDI ARABIA DURING THE HAJJ, AND IN KIDNAPPING THE SYRIAN CHARGÉ D'AFFAIRS WHEN VISITING TEHRAN."

Intelligence, Hojatoleslam Mohammed Reyshahri, to weaken Montazeri's position and to bring the him under their control."[49]

Montazeri defended Hashemi, straining his relationship with Khomeini.[50] On October 4th, Khomeini, after a meeting with Rafsanjani and Khamenei, who sought to limit their rival Montazeri's influence, admonished Montazeri for his support of Hashemi, writing:

> To my regret you have acted, spoken and written under the influence of others and [on their instigation] have held public speeches and sent messages to the judiciary. In the interests of the nation, I expect you, for many years my friends […] to clean your house of its relations to Seyyed Mehdi and to refrain from any reaction to the trial against him, which will surely end with his condemnation."[51]

On October 9th, Montazeri responded to Khomeini by taking responsibility for Hashemi's actions, telling Khomeini he could find a different successor.[52] Then three days later Hashemi and forty others were arrested. It was only after Hashemi's arrest that associates of Hashemi and Montazeri approached Hassan Sabra at Beirut's Ash-Shiraa with enough details to provoke scandal. The exposure might be better understood, then, as also Montazeri's leak, rather than just Hashemi's: Hashemi was already in prison at the time of publication. The timeline of the arrest and exposure presents the leak as Montazeri's attempt to protect Hashemi, or failing that, to retaliate against his arrest by exposing the sensitive secrets of the

---

49   Von Schwerin, *Dissident Mullah,* 90.
50   Von Schwerin, 532
51   Von Schwerin, *The Dissident Mullah,* 90.
52   Ibid, 533.

regime.

Aftermath: An Execution and Montazeri's Fall

Although public outrage followed the exposure of the deals in both countries, in Iran the affair did not become the full-blown scandal it did in the United States. In fact, the political repercussions for those Iranian officials involved in the deals were next to none. There is a certain parallel in the successes of both American and Iranian officials in avoiding any meaningful repercussions for their deals or secrecy: in the United States, despite the television drama that ensued during Congressional hearings, George H.W. Bush, upon entering office, pardoned all officials involved (he himself had been a participant), while Rafsanjani's group employed the incident to their distinct political advantage.

Hashemi was executed a year later after his televised confession to "deviation" from the official path.[53] Eight months of interrogation and torture forced him to recant his politics, to confess that "carnal instincts (nafsaniyat) had enticed him into illicit relations (ravabat) with Satan/SAVAK," causing him to "sow dissension" and "misuse Montazeri's office."[54] The sensationally televised confession, reaching an almost Stalinist level of absurdity, broadcast the danger of political disobedience even within the confines of Islamist politics. Though the state denied it, the show-trial confession and execution most certainly resulted from the Ash-Shiraa exposure. The impact of the exposure was both individual and collective, both immediate and enduring in its repercussions.
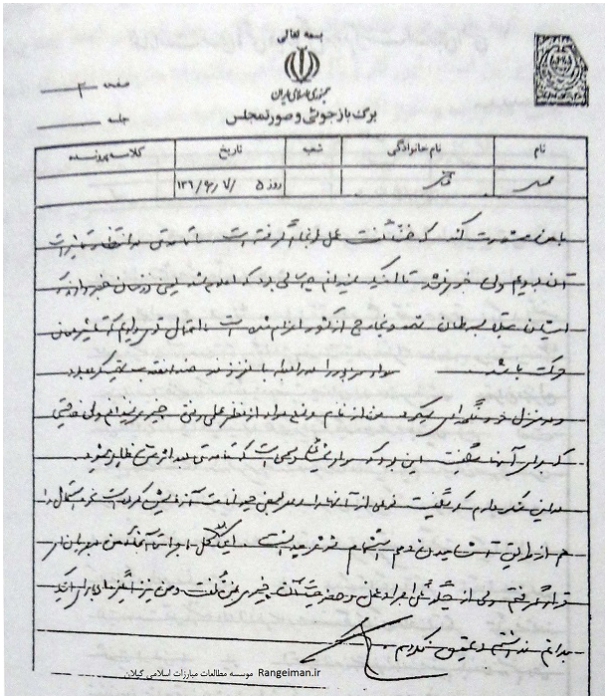
Figure 4: A page of Hashemi's handwritten confession.

Hashemi's rebelliousness had not only cost him his life, but it had also profoundly shaken the close relationship between Khomeini and Montazeri, as Montazeri defended Hashemi and challenged the Supreme Leader. The ensuing strain in their relationship contributed to Montazeri's fall from power. Upon Khomeini's death in 1989, Ali Khamenei, though he lacked equivalent religious credentials, was selected as Khomeini's successor and Rafsanjani became President. It is worth considering the future that might have been in Montazeri's Iran: after Montazeri had been chosen as successor, "in a series of lectures on velayat-e faqih [he]

---

53   Abrahamian, *Tortured Confessions,* 162-166.
54   Ibid, 165.

set out to reinterpret this doctrine in order to allow for more popular participation and political freedom."[55] After years of privately voicing criticism to Khomeini, particularly regarding abuses in courts and prisons, in Khamenei's Iran, Montazeri became one of the regime's fiercest critics, coming to "prioritize civil rights, pluralism, and popular participation."[56] The Ash-Shiraa leak contributed to Montazeri falling from a position of power to one of dissent.

The leak, then, contains a multitude of possibilities: what if Montazeri had succeeded Khomeini, or the United States had enacted meaningful reforms of its national security process to bring the decisions of the executive under meaningful scrutiny and review, or, perhaps, the deals had succeeded. A close examination of this history begins bringing these possibilities, otherwise elided, to light as it seeks to correct the easy narrative that Hashemi was arrested for exposing the arms deals. It constructs a careful timeline based on Ash-Shiraa and other primary sources that places Hashemi's arrest within a broader struggle between his forces of permanent, international revolution and those of the state. His arrest constituted an attempt by Rafsanjani and Reyshahri to bring the activities of the Office of Islamic Liberation movements under control while weakening Montazeri. This story, too, is part of the factional struggle between Montazeri and Rafsanjani that Montazeri ultimately lost. This is a story that the English-language literature on "Iran-Contra" has too often ignored entirely, the history lost within the intrigue of TOW shipments, cakes, keys, bibles, and the televised drama that followed. But without Hashemi's story, the history is incomplete and the agency of Iranians and the dynamic politics of the time more easily forgotten.

"THIS IS A STORY THAT THE ENGLISH-LANGUAGE LITERATURE ON 'IRAN-CONTRA' HAS TOO OFTEN IGNORED ENTIRELY, THE HISTORY LOST WITHIN THE INTRIGUE OF TOW SHIPMENTS, CAKES, KEYS, BIBLES, AND THE TELEVISED DRAMA THAT FOLLOWED."

---

55   Ibid, 7.
56   Ibid, 89; Von Schwerin, *The Dissident Mullah,* 2.

Works Cited

Al-Shiraa, 3 November 1986 (Foreign Broadcast Information Service, Daily Reports, South Asia). Excerpts in translation

Hijazi, Ihsan A. "Hostage's Release is Linked to Shift in Iranian Policy." New York Times. 4 November 1986.

"Iran-Contra Report; Arms, Hostages and Contras: How a Secret Foreign Policy Unraveled." New York Times, 19 November 1987.

Sabra, Hassan. "This is what happened in Tehran." (Hadhā mā jarā fī Tehrān). Ash-Shiraa. Beirut, Lebanon. 3 November 1986. https://twitter.com/faezsaleh/status/687656842244304896

Sick, Gary. "Iran's Quest for Superpower Status." Foreign Affairs. Spring 1987.

Sick, Gary (Senior Research Scholar at Columbia University's Middle East Institute; adjunct Professor at the School of International and Public Affairs; journalist on Iran and Iran-Contra), responded to comment via email, 2 May 2017.

Abrahamian, Ervand. 1999. Tortured Confessions: Prisons and Public Recantations in Modern Iran. Berkeley: University of California Press, 1999.

Blight, James G. Becoming Enemies: U.S.-Iran Relations and the Iran-Iraq War, 1979-1988.

Byrne, Malcolm. Iran-Contra: Reagan's Scandal and The Unchecked Abuse of Presidential Power. Lawrence, Kansas: Kansas University Press, 2014.

Jones, Toby C. 2012. "America, Oil, And War In The Middle East." Journal Of American History 99 (1): 208-218. doi:10.1093/jahist/jas045.

Keddie, Nikki R. 2006. Modern Iran. 1st ed. New Haven: Yale University Press.

McGlinchey, Stephen. US Arms Policies Towards The Shah's Iran. Routledge Studies in Foreign Policy, 2014.

Milani, Mohsen M. "Hostage Crisis." Encyclopaedia Iranica. 14 December 2004. Vol. XII, Fasc. 5, pp. 522-535.

Segev, Samuel. Iranian Triangle: The Untold Story of Israel's Role in the Iran-Contra Affair. Translated by Haim Watzman.

Von Schwerin, Ulrich. "Mehdi Hashemi and the Iran-Contra Affair." British Journal of Middle Eastern Studies, 42:4, 520-537, 2015. DOI: 10.1080/13530194.2015.1028520

Von Schwerin, Ulrich. The Dissident Mullah: Ayatollah Montazeri and the Struggle for Reform in Revolutionary Iran. London: I.B. Tauris, 2015.

Historical Mirrorism:

Reckoning with Migration and Integration in Italy

O n a breezy day in late July, Abdul Sane bikes to a plot of land outside of Forte Di Acqui Park in Alessandria, Italy.

"Friendship is indispensable to man for the proper function of his memory. Re–membering our past, carrying it with us always, may be the necessary requirement for maintaining, as they say, the wholeness of the self. To ensure that the self doesn't shrink, to see that it holds on to its volume, memories have to be watered like potted flowers, and the watering calls for regular contact with the witnesses of the past, that is to say, with friends. They are our mirror; our memory; we ask nothing of them but that they polish the mirror from time to time so we can look at ourselves in it." – Milan Kundera, Identity

…

Introduction

On a breezy day in late July, Abdul Sane bikes to a plot of land outside of Forte Di Acqui Park in Alessandria, Italy. The plot is flanked on both sides by vegetable gardens run by Caritas Diocesana of Alessandria, which distributes lots to economically vulnerable citizens for farming. Sane wears the top portion of a beekeeper's suit and lights a hive smoker stuffed with dried grass. An experienced beekeeper of two years, he slips on a veil to

protect his head and face, but forgoes gloves. He wanders over to an expansive apiary comprised of twenty bee hives. Surrounded by synchronized buzzing and puffing smoke along the way, he explains, "The smoke calms the bees, making my job easier."[1]

Sane is head beekeeper of the Bee My Job program established and managed by the Associazione di Sociale Promozione Cambalache (APS Cambalache). The mission of Bee My Job is to promote the social and economic integration of asylum-seekers and immigrants. It functions as a professional training program that teaches participants the art of beekeeping through month-long classes and visits to regional apicultural centers. The honey that is produced is sold locally, and the entire social enterprise is exclusively managed by its participants. The program also promotes sociocultural integration by requiring enrollment in courses on the Italian language, pathways to citizenship, and occupational safety. The program is geared toward asylum-seekers and immigrants from Sub-Saharan Africa, but any individual who has been granted some form of legal status is eligible for enrollment.

"THE PROGRAM HAS BEEN RECOGNIZED BY THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES AS A MODEL FOR SUCCESSFUL INTEGRATION."

Bee My Job was established in response to the growing number of asylum-seekers arriving on Italian shores in 2014. That year, over 170,000 immigrants and asylum-seekers arrived by sea, a number approximately four times higher than in 2013.[2] The majority were Syrians fleeing the violence of civil war, and others were Eritreans, Malians, Gambians, and Nigerians escaping combinations of dictatorship, armed conflict, and poverty.[3] Most traveled through Libya, Egypt, and Turkey. Since its launch, Bee My Job has trained over 100 beekeepers and has placed upwards of 90 of them into long-term, rather than seasonal, employment. The program has been recognized by the United Nations High Commissioner for Refugees as a model for successful integration.

Sane fled the political instability and poverty of Senegal in 2015. Despite Senegal being lauded as one of the most stable democracies in post-colonial Africa, the ongoing separatist violence in the southwestern region of Casamance has produced a sizable population of internally displaced persons (IDPs). In 2015, over a million refugees arrived in Europe by sea. Of the total registered, 84 percent came from the world's top ten refugee producing countries, indicating that most were fleeing war or persecution.[4]

---

1   "Interview with Abdul Sane," interview by author, August 1, 2018.
2   "Migrant Arrivals by Sea in Italy Top 170,000 in 2014," International Organization for Migration, September 04, 2017, accessed October 15, 2018, https://www.iom.int/news/migrant-arrivals-sea-italy-top-170000-2014.
3   Ibid.
4   Jonathan Clayton and Hereward Holland, "Over One Million Sea Arrivals Reach Europe in 2015," UNHCR, December 30, 2015, , accessed October 15, 2018, http://www.unhcr.org/en-us/news/latest/2015/12/5683d0b56/million-sea-arrivals-reach-europe-2015.html.

Italy received about 154,000 of these individuals, and approximately 6,000 were Senegalese asylum seekers.[5] Sane has been granted refugee status in Italy but has no imminent plans to return to Senegal, as the situation has yet to stabilize. As of the beginning of 2018, it is estimated that there are currently 22,000 IDPs in Senegal.[6]

He leaves behind his wife and family, for Sane is unwilling to ask them to undergo the same journey through Libya. He says, "Working with bees is easy compared to the slave labor I was forced to do in Libya, where I was given one piece of bread a day and tortured."[7] With his bare hands, he methodologically dismantles each beehive constructed out of upcycled wooden filing cabinets. Each cabinet is filled with metal reams that serve as scaffolding for honeycombs. As the bees buzz around him, Sane explains that he was trained as an electrician. When he arrived in southern Italy, he made his way north, and it was by chance that he received an opportunity to realize his unknown dream of becoming a beekeeper.

Sane's journey from his native country to Italy via boat is fairly common amongst most asylum-seekers and immigrants in Italy. What is less common, however, is that he has been granted a stable form of legal permanent residency and has been placed into an integration program that offers him opportunities for language acquisition, community and cultural engagement, housing, education, and gainful employment. Sane's success exemplifies the best of the Italian asylum system that has struggled to accommodate the large waves of mass displacement and migration of recent years.

Ecosystems of Refugee Support

Alessandria, Italy, is a mid-sized Italian town of a population of about 100,000 people. It is usually not a destination, but instead a stop along the way because of its strategic location an hour away from from the major hubs of Turin, Milan, and Genoa. However, in recent years, it has become a desirable resettlement city for asylum-seekers and immigrants seeking a quiet transition to Italian life largely due to its close-knit community and the plethora of social integration enterprises operating within the city's boundaries.

Bee My Job and Il Chiostro Hostel are two of about thirty local integration projects in Alessandria that implement traditional integration methodologies through innovative social enterprises. They prioritize independent, sustainable, and integrated living for the asylum-seekers and immigrants by providing Italian classes, housing, employment training and placement, opportunities for cultural exchange, and support navigating the Italian immigration system.

Mara Alacqua, executive director and founding member of APS Cambalache, explains that civil society organizations have had the largest hand in integrating asylum-seekers and immigrants. APS Cambalache, upon its initial formation in 2012, was comprised of just Alacqua and a colleague, both eager to serve the asylum-seekers and immigrants struggling to navigate

---

5   "Refugee & Migrants Arrivals to Europe in 2017," Refugee & Migrants Arrivals to Europe in 2017, January 2018, accessed October 14, 2018, https://data2.unhcr.org/es/documents/download/62023.
6   "Senegal," Senegal | IDMC, accessed October 15, 2018, http://www.internal-displacement.org/countries/senegal.
7   "Interview with Abdul Sane," interview by author, August 1, 2018.

new societies. The organization's mission is to "promote the social integration of vulnerable groups; active citizenship; the social and economic rights of marginal groups and of society as a whole."[8] The name of the organization is inspired by Alacqua's time living and working as an immigrant in Argentina and Spain; it borrows from the Spanish word "cambalache," meaning a swap or exchange and is also inspired by the Argentine tango song of same name that is critical of 20th century corruption.

Over the past six years, Alacqua has transformed APS Cambalache into an official integration organization funded by the Italian government. Its staff now includes an on-site psychotherapist, Italian teachers, a housing coordinator, a health coordinator, case managers, and administrators. APS Cambalache also manages seven apartments that house the 41 asylum-seekers and immigrants currently enrolled in their programs.

For Alacqua, community-based integration efforts are the best way to promote functional immigration policy. "We need more and more opportunities for NGOs to put people in proximity with each other," she says.[9] In addition to running the Bee My Job program, APS Cambalache oversees a small garden managed by program participants. The organization also plans cultural events in the community that provide local residents opportunities to interact with asylum-seekers and immigrants to break down cultural stigmas. In the past, some of these events have included art and dance classes, as well as in-home cooking celebrations.

Around the corner from the APS Cambalache office is the Il Chiostro Hostel, a social enterprise run by Marco Ciavaglioli and Vanda Manieri. In 2011, Ciavalioli and Manieri purchased and renovated an abandoned building that is now the only hostel operating in Alessandria. When the local police and government requested that they open their doors for asylum-seekers and immigrants in need of temporary housing, not only did they agree, but they also decided to incorporate this as an element of their enterprise. The hostel has since functioned as any traditional hostel does, providing affordable accommodation for travelers, while also doubling as a housing and integration project for asylum-seekers and immigrants. Il Chiostro is home to about 30 asylum-seekers and refugees who help manage the facilities while enrolled in Italian classes and employed. The large courtyard area is used as a community hub that facilitates cultural exchange, often through movie nights and community dialogues.

Alacqua, Ciavalioili, and Manieri all remark that negative attitudes harbored by local residents towards asylum-seekers and immigrants are possibly related to past experiences of discrimination or feelings of jealousy. Alacqua, whose father is originally from Sicily, recounts the discrimination that Sicilians originally faced when migrating to northern Italy. Distinguished by the color of their skin and their labor-intensive skills sets, many landlords refused to rent to Sicilians, displaying signs that read "Housing, but not to Sicilians."[10] She says the phenomena has emerged once more, but in the form of "Housing, but not to immigrants, refugees, and Africans."[11]

---

8   Mara Alacqua, "Homepage," APS Cambalache, accessed October 14, 2018, https://www.cambalache.it/.
9   "Interview with Mara Alacqua," interview by author, August 1, 2018.
10   Ibid.
11   Ibid.

"ON THE OUTSKIRTS OF ROME, THERE EXISTS AN ENCLAVE OF TENTS AND MAKESHIFT HOMES LOCATED THIRTY MINUTES SOUTH OF THE TIBURTINA RAILWAY STATION."

Ironically for Alacqua, it is often previous groups of immigrants who are most hostile to new ones. Eastern Europeans immigrants who received little aid upon initial resettlement often resent asylum-seekers and immigrants, feeling as if they are unfairly benefiting from government welfare that was not offered to the immigrants of the past. Racial prejudices and biases against many of these newer arrivals only compound the hostility. While disavowing racist attitudes, Alacqua clarifies that the economic concerns of local residents should not be hastily dismissed; it is true that the recent influx of asylum-seekers and immigrants has created competition in the agricultural industry, as they are willing to work for lower wages.[12]

Alacqua also emphasizes that it is hypocritical for Italians for seek the closure of their borders when so many immigrated to other countries for work or education. She says, "There are more Italians that go abroad for economic reasons than asylum-seekers who arrive here." Alacqua is right. In 2015, one of the peak years for oceanic migration to Italy, nearly 2.5 million Italians were residing as foreign nationals in other countries.[13] The top countries of residence were Germany, the United States, France, Canada, and Switzerland, which also coincide with the top destination countries of choice for many asylum-seekers and immigrants.[14]

Elsewhere in Italy, civil society groups are taking more radical approaches to aid asylum-seekers and immigrants, even encouraging increased migration. On the outskirts of Rome, there exists an enclave of tents and makeshift homes located thirty minutes south of the Tiburtina railway station. The community of denizens consists of male asylum-seekers and immigrants whose applications for legal residency in Italy are pending or have been rejected, and who are reluctant to return to their countries of origin for reasons of persecution or substandard living conditions.

The encampment is essentially an occupation in the style of the 2011 Occupy Wall Street protests in New York City. The walls of the buildings alongside the south end of the encampment are painted with graffiti promoting open borders, world peace, and rights for all. Men lounging around the encampment are engaged in a variety of activities: some are listening to music and surfing the internet on their cellphones, others are invested in a competitive game of soccer, and a group of men are huddled around a pot simmering with goat stew. While some of these men have arrived in Rome with wives and children, they do not stay in the encampment and are instead prioritized for placements in city shelters. The residents do not equivocate when they say that neither their informal encampment nor formal refugee camps are safe places for women and children.

Though there is no name for the encampment itself, the collective that lives and volunteers there is known as the "Baobab Experience," an homage to the deciduous tree native to many parts of Africa, the native continent of most camp residents. The collective formed in 2015 in response to an institutional void in the Italian capital. There was no resource hub for migrants, so volunteers stepped in to provide immediate resources and aid for migrants who stopped

12   Ibid.
13   Angelo Scotto, "From Emigration to Asylum Destination, Italy Navigates Shifting Migration Tides," Migrationpolicy.org, July 10, 2018, accessed October 15, 2018, https://www.migrationpolicy.org/article/emigration-asylum-destination-italy-navigates-shifting-migration-tides.
14   Ibid.

"

THERE IS A...POST-ER THAT HANGS ON A CHAIN LINK FENCE, READING "...WE ARE NOT THE PROBLEM. WE ARE YOUR MIRROR..."

in Rome while making their journey to other parts of Europe. On a daily basis, volunteers coordinate daily dinners, activities for the residents, and provide material and legal aid.

The Baobab Experience has a fraught relationship with the Roman police, who are unsure of what to do with the them. Local authorities have evicted the collective over 20 times since its original launch, for fear that it was encouraging asylum-seekers and immigrants to stay in Rome. This fear is not entirely unfounded; to date, Baobab Experience has aided over 60,000 individuals, and volunteers remark that the organization functions as a sort of informal migration and integration corridor for many seeking to journey to Europe.[15]

The new location for the encampment is secluded from the busiest parts of Rome,tucked away between an enclave of trees to disincentive further police raids. Volunteers believe they have finally found a safe location, as it is unlikely the police would travel so out of their way to execute another eviction. Make no mistake, the police are aware of the new location, but are making a compromise: the alternative would be for the collective's inhabitants to be visible and homeless on the streets of Rome, public nuisances in one of the world's most popular tourist destinations.

Despite the optimism of the volunteers, feelings of frustration and hopelessness with the dead ends of Italian and international immigration policy permeate the camp. Upon entry into the encampment, there is a tattered cloth poster that hangs on a chain link fence, reading "Love us as you love [yourselves]. We are not the problem. We are your mirror. The future of all will become a big problem if we don't generate love. No love. No peace."[16]

The Political Landscape

Liberal western democracies across Europe and North America are confronting alt-right populist extremism stoked by anxieties about economic disenfranchisement and ethnocentric attitudes. Italy is no exception to this, and the political shift has played a large role in the formation of immigration policy fueled by xenophobia, racism, and fear. In June 2018, the anti-establishment Five Star Movement (MS5) party and the hard-right Lega party struck a deal to form a new coalition government.

M5S launched in the wake of the Eurozone crisis in 2009 as an anti-European Union, anti-establishment party railing against the corruption of the Italian political elite. Lega was originally established as "Lega Nord," or the Northern League, a regional party that distinguished itself from Southern Italians through racism and classism, and pushed for the secession of the more prosperous and historically homogeneous northern industrial Italian territories. The party recently dropped the regional label in order to more towards a more inclusive platform, bettering the chances of electoral victory. However, the boundaries of their inclusivity end at Italy's borders. As part of their rebranding, Lega has championed an "Italy First" platform centered around opposing immigration and European unity.

---

15   "Interview: Baobab Experience to Fill an Institutional Void in the Italian Capital," interview by Giadi Negri, European Civic Forum, January 26, 2018, accessed October 14, 2018, http://civic-forum.eu/civic-space/interview-baobab-experience-to-fill-an-institutional-void-in-the-italian-capital.
16   Photo of a cloth sign at Baobab Experience encampment, Rome, Italy, personal photograph by author, August 11, 2018.

An incident in the northern Italian town of Macerata in February 2018, ahead of the March general elections, pushed immigration to the forefront of public discourse. On February 1st, the body of 18-year-old Pamela Mastropietro, an Italian native battling drug addiction, was found dismembered in two suitcases. She was reported missing from her drug rehabilitation program two days prior. The investigation has yet to conclude whether she died as the result of a drug overdose at the house of her dealer, a documented Nigerian immigrant, or whether she was murdered. Despite the legal status of her dealer, the event became a flashpoint amidst rising anxiety about an invasion of undocumented foreigners, evoking fierce public protest.

In retaliation for Mastropietro's murder, Lt. Col. Michele Roberti, the local commander of Italy's elite police force, the Carabinieri, drove through the streets of Macerata and fired about 30 shots over the course of 90 minutes a.[17] He targeted dark-skinned pedestrians, wounding six African asylum-seekers and immigrants with non-life threatening injuries. Roberti was once a candidate for the Northern League, and upon his arrest on the steps of Macerata's Fascist-era war memorial, bore the Italian flag draped around his shoulders.[18] After this attack, nearly every immigrant moved away from Macerata for fear of further violence.

During the 2018 March elections, MS5 captured 222 seats in parliament, the most of any party, while Lega won 124 seats. Together, their coalition captured more than the 316 seats needed to have a majority. Many Italians believe that the events in Macerata were the tipping point for undecided Italian voters. After the elections, Interior Minister Matteo Salvini, a Lega party member, pledged to deport 500,000 undocumented asylum-seekers immigrants to the fanfare of many.[19] At a rally in northern Italy, he commanded asylum-seekers and immigrants to "get ready to pack [their] bags."[20] This aggressively anti-immigration rhetoric contributed to the increase of Lega's poll ratings up to 26% from less than 18% at the time of the general elections in March 2018.[21]

Tragedy, Then Farce

Historically, Italy has been no stranger to migration, both regular and irregular. According to Enrico Pugliese, a sociologist at Sapienza University of Rome who studies influxes of immigration into Italy, the major migration waves of the mid-twentieth century were beneficial to the economy. In the 1960s and 1970s, Tunisians came to Apulia to work as fisherman, farm hands, and construction workers. They were followed by women leaving

---

17   Griff Witte and Stefano Pitrelli, "A Gruesome Murder. A Hate-filled Shooting Rampage. And a Reckoning with Immigration before Italy Votes.," The Washington Post, February 06, 2018, accessed October 15, 2018, https://www.washingtonpost.com/world/europe/a-gruesome-murder-a-hate-filled-shooting-spree-and-a-reckoning-with-immigration-before-italy-votes/2018/02/06/d34f8598-0aa7-11e8-998c-96deb18cca19_story.html?utm_term=.9f10ef01a13e.
18   Ibid.
19   Holly Ellyatt, "Italy's New Leaders Vowed to Expel 500,000 Illegal Migrants - but It'll Cost Them," CNBC, June 05, 2018, accessed October 15, 2018, https://www.cnbc.com/2018/06/04/pack-your-bags-italys-new-leaders-tell-500000-illegal-migrants--but-itll-cost-them.html.
20   Ibid.
21   "Italy's New Government Wants to Deport 500,000 People," The Economist, June 07, 2018, , accessed October 15, 2018, https://www.economist.com/europe/2018/06/07/italys-new-government-wants-to-deport-500000-people.

Catholic countries in Africa and South America to work as waitresses.[22] In 1976, Yugoslavians immigrated to Italy to help with reconstruction work in the northeastern region of Friuli after a 6.5 magnitude earthquake.[23] With the exception of the Yugoslavians, most immigrants were undocumented

"IMMIGRANTS, PRIMARILY FROM SENEGAL AND MOROCCO, ASSUMED THE ROLES OF STREET VENDORS, A CLASS CALLED THE 'VU' CUMPRÀ,' WHICH TRANSLATES TO 'WOULD YOU LIKE TO BUY?'"

and settled throughout southern Italy, as most arrived by sea.

A marked shift in the occupational patterns of immigrants occurred in the 1980s, a period of increased investment in the southern Italian economy that led to rapid economic growth. Immigrants, primarily from Senegal and Morocco, assumed the roles of street vendors, a class called the "vu' cumprà," which translates to "Would you like to buy?"[24] The term has become fixed in the Italian lexicon with racist and derogatory connotations and still remains in use. Throughout the 1980s, women continued to arrive in Italy from Catholic countries in South America, the Horn of Africa, and the Philippines, primarily working as domestic workers.[25]

Everything changed after the fall of the Berlin Wall and the ensuing economic crisis in former Eastern Bloc countries. In Albania, inflation peaked at over 350 percent and the annual GDP decreased by over 50 percent annually.[26] For the average Albanian, this manifested in unemployment, food shortages, and social unrest. Cargo ships would transport tens of thousands of Albanian emigrants to Italy; in 1991, Albanians began arriving on the shores of southern Italy.[27] On March 7th, 1991 alone, 20,000 disembarked from one ship in the southeastern port of Bari.[28]

At the onset of the migration, the Albanian migrants were welcomed by local residents and were offered temporary shelter by the government. However, officials in Rome quickly changed course upon realizing they were

---

22   "Immigration to Italy: How It Has Changed over the Last Half-century," interview by Alessandro Lanni, Open Migration, May 30, 2016, accessed October 14, 2018, https://openmigration.org/en/analyses/immigration-to-italy-how-it-has-changed-over-the-last-half-century/.
23   Ibid.
24   Ibid.
25   Ibid.
26   Kosta Barjaba, "Albania: Looking Beyond Borders," Migrationpolicy.org, March 02, 2017, accessed October 15, 2018, https://www.migrationpolicy.org/article/albania-looking-beyond-borders/.
27   Alan Cowell, "Italy Starts to Turn Back Albanian Wave," The New York Times, August 10, 1991, , accessed October 15, 2018, https://www.nytimes.com/1991/08/10/world/italy-starts-to-turn-back-albanian-wave.html.
28   Alan Cowell, "Italy Starts to Turn Back Albanian Wave," The New York Times, August 10, 1991, accessed October 15, 2018, https://www.nytimes.com/1991/08/10/world/italy-starts-to-turn-back-albanian-wave.html.

effectively opening a migration rather than a humanitarian corridor. The main point of contention, which is still present in contemporary immigration debates, was one of classification: Were Albanians official refugees, as defined by the 1951 United Nations Convention Relating to the Status of Refugees, or not? Qualifying individuals must be able to prove a "well-founded fear of being persecuted" in their country of origin "for reasons of race, religion, nationality, membership of a particular social group, or political opinion."[29] The official Italian position was that, as their country was experiencing a transition to democracy, the Albanian arrivals were not political refugees, but rather "illegal economic migrants."[30]

Following this pivot in immigration policy, military and police units were dispatched to deport as many individuals as they could via plane or ferry. Those who could not be deported immediately were rounded up in sports stadiums, which served either as detention or reception centers depending on what authorities decided for each individual. These migration flows leveled off until 1997, when the outbreak of the Albanian Civil War forcibly displaced Albanians who the international community undisputedly considered official, legal refugees. Italy, however, did not change course. The Italian Navy engaged in a proactive and preventative immigration enforcement campaign, effectively blockading any maritime vessels transporting Albanian refugees.

The criminalization of Albanian immigrants nearly thirty years ago has created a long-lasting irregular migration issue that largely remains unresolved. Most Albanian immigrants who arrived between 1990-1998 and who managed to remain in the country were undocumented. It is estimated that out of about 150,000 Albanian immigrants in Italy in 1998, only about 82,000 were registered with authorities. Even after the Italian government undertook efforts to legalize the status of most undocumented immigrants after 1999, a sizable undocumented Albanian population remained. In 2003, about one-fifth of all Albanians in Italy lacked legal documentation, indicating that the government's hardline immigration policies to control "illegal economic migrants" have largely been ineffective.[31] These policies fail to expel individuals and offer pathways to legal status, perpetuating irregular migration and dysfunctional immigration policies.

"THE CRIMINALIZATION OF ALBANIAN IMMIGRANTS NEARLY THIRTY YEARS AGO HAS CREATED A LONG-LASTING IRREGULAR MIGRATION ISSUE THAT LARGELY REMAINS UNRESOLVED."

29   United Nations, "Convention and Protocol Relating to the Status of Refugees," UNHCR, 3, accessed October 15, 2018, http://www.unhcr.org/en-us/3b66c2aa10.
30   Kosta Barjaba, "Albania: Looking Beyond Borders," Migrationpolicy.org, March 02, 2017, accessed October 15, 2018, https://www.migrationpolicy.org/article/albania-looking-beyond-borders/.
31   Ibid.

The case of Albanian immigrants and asylum-seekers attempting to resettle in Italy in the 1990s echoes accounts of what has transpired on the Italian coast in the last decade. From 2000 to September 2018, over 977,000 asylum-seekers and immigrants from internationalized conflicts, such as the Syrian Civil War and the Arab Spring, reached Italy by boat via Libya.[32] The migration influx has steadily continued despite the hardline, security-oriented enforcement policies of criminalization and deportation that have remained in place and only expanded. While the Italian military and police are no longer being dispatched to physically round asylum-seekers up for deportation, the effective criminalization of these individuals has continued via the consequences of a dysfunctional asylum system beyond capacity and maritime immigration enforcement efforts.

These enforcement policies ignore the reality that migration will continue while failing to offer humane and lawful solutions for asylum-seekers and immigrants already present. They also fail to address the most pressing questions of contemporary Italian society: What should be done about established asylum-seekers and undocumented immigrants without pathways to legalization, without guarantees of safety and stability in their native countries, and without the means to go elsewhere?

Italian Asylum Law and Its Discontents

Italy has a complex legal schema for adjudicating asylum claims that has developed substantively over the past few decades. It is bound by legal obligations to asylum-seekers at the supranational, regional, national, and local levels. In spite of such extensive legal obligations, the system has failed some asylum-seekers because of conflicting regional interests, changing public opinions, inadequacies within asylum law itself, capacity limitations, and of course, debates over immigration policy.

At the supranational level, Italy has ratified the most important international treaties designed to protect the rights of asylum-seekers and the principle of family reunification. It is a signatory to the Universal Declaration of Human Rights of 1948, whose Article 14 enshrines "the right to seek and to enjoy in other countries asylum from persecution."[33] Italy has also ratified the 1951 United Nations Convention Relating to the Status of Refugees, which established the principle of non-refoulement, thereby prohibiting the expulsion or repatriation of a refugee in the event their "life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."[34]

However, the 1951 Convention also includes a provision that relinquishes countries from the aforementioned obligation for cases where there are reasonable grounds for regarding a refugee as "a danger to the security of the country in which he is, or who, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that country."[35] The broad scope and ambiguity in this provision leaves some asylum-seekers and immigrants at the mercy of

32   "Irregolari E Sbarchi in Europa E in Italia - Presenze," Fondazione ISMU, accessed October 15, 2018, http://www.ismu.org/irregolari-e-sbarchi-presenze/.
33   "Universal Declaration of Human Rights," United Nations, accessed October 15, 2018, http://www.un.org/en/universal-declaration-human-rights/index.html.
34   Ibid.
35   Ibid.

narrow and politicized interpretations of international law. This provision fails to anticipate the contemporary political environment in which the rhetoric surrounding immigration has largely not been about upholding the rights of asylum-seekers and immigrants, but rather about expelling them as expediently as possible because of hypothetical and unfounded threats to public safety.

What makes Italy unique from other signatories of the United Nations' legislation on asylum policy and from its members states in the European Union is that its national constitution guarantees a universal right of asylum. Article 10 of the Italian Constitution proclaims that "[a] foreigner who, in his home country, is denied the actual exercise of the democratic freedoms guaranteed by the Italian constitution shall be entitled to the right of asylum under the conditions established by law."[36] To uphold this principle, the Italian government has created national and regional agencies to provide material and legal aid to asylum-seekers, to process and review their applications, and to monitor their status. Once an asylum-seeker is granted refugee status by the Italian government, they are entitled to access the same benefits as all Italian citizens.

However, the way in which the Italian asylum system operates has not always been orderly and within the bounds of due process. As the country has faced overwhelming influxes of sea arrivals and asylum-requests in recent decades, the scaffolding for the asylum framework has been built and modified as needed.

In its most recent iteration, the Italian asylum system has functioned through a two-step process. Upon arrival, asylum-seekers are to receive first-aid and assistance in centers at points of entry. The legal status of asylum-seekers is supposed to be determined at these centers, and they are only to spend the amount of time necessary for their processing to be completed. Three types of these centers exist, based on demand: First Aid and Reception Centers, also known as "hotspots;" Collective Centers run by the government; and Temporary Reception Centers run by local prefectures. In theory, the first two centers should be adequate for housing all asylum-seekers at any given time, and the third type of center is an emergency measure if the first two asylum reception centers are overwhelmed.

Once asylum-seekers are processed and granted some form of protection, they are transferred to the Protection System for Asylum Seekers and Refugees (SPRAR), which coordinates their resettlement and integration processes. In 2002, SPRAR grew out of the National Asylum Program (NAP), an asylum-seeker reception system originally conceived by Ngô Đình L   Quyên. Ngô Đình designed the program during her tenure at the Catholic humanitarian NGO, Caritas Italy. She was a human rights lawyer, the niece of South Vietnamese president Ngô Đình Di m, and a refugee herself.

SPRAR is a publicly-funded network of local authorities and NGOs, which collaborate to foster long-term integration through small-scale, high-impact projects. As of February 2018, there were 876 SPRAR projects, including Bee My Job and Il Chiostro Hostel. Asylum-seekers whose initial

---

36   Italy, Parliamentary Information, Archives and Publications Office of the Senate Service for Official Reports and Communication, 6.

applications are rejected are entitled to two appeals processes, during which they can continue to receive government aid.

However, the lack of places in Temporary Reception Centers has created a bottleneck effect in the asylum system, causing massive dysfunction. Instead of prioritizing the processing of asylum-applications, immigration officials instead must scramble to accommodate arrivals. In effect, many asylum-seekers have experienced wait times of years for asylum decisions. Many, unwilling to create a life in light of uncertainty, seek asylum elsewhere, disrupting the regional EU protocols for tracking asylum applications.

The failure of the Italian asylum system because of capacity limitations has affected not only the lives of immigration officials and asylum-seekers, but also Italian society as whole. The dysfunction has falsely confirmed for some native Italians that asylum-seekers bring chaos and disorder to society, and that there is no place for them in Italy. These illusory falsehoods create a positive feedback loop in which Italian authorities and public opinion criminalize asylum-seekers for systemic failures beyond their control, disincentivizing politicians from reforming a dysfunctional system. The dynamic between the Baobab Experience and Roman authorities exemplifies this dynamic.

Still, the spirit of Italy's constitution and laws as well as its commitments to international human rights law is one of supporting asylum-seekers. If the capacity of Italy's asylum system was adequate to address the large influxes of arrivals in recent years, it is unlikely that immigration would continue to be as controversial as it has become.

"IF THE CAPACITY OF ITALY'S ASYLUM SYSTEM WAS ADEQUATE TO ADDRESS THE LARGE INFLUXES OF ARRIVALS IN RECENT YEARS, IT IS UNLIKELY THAT IMMIGRATION WOULD CONTINUE TO BE AS CONTROVERSIAL AS IT HAS BECOME."

Pushing Borders Beyond Borders

In 2017, Italy received the second-highest number of asylum requests behind Germany.[37] That year, only 41.8 percent of all applications for some form of immediate protection, or "first instance applications," were granted.[38] Of 130,119 applicants, 75,730 were denied permission to remain in Italy, though it is unclear how many of the latter group have left.[39] As an EU member state, Italy should not be solely responsible for managing

---

37   The Local, "Italy Received More Asylum Requests in 2017 than Any Other EU Country except Germany," The Local, March 20, 2018, , accessed October 15, 2018, https://www.thelocal.it/20180320/italy-2017-asylum-requests.
38   ASGI, "Statistics," Statistics - Italy | Asylum Information Database, accessed October 15, 2018, https://www.asylumineurope.org/reports/country/italy/statistics.
39   Ibid.

the mass migration to its shores. The unwillingness of other EU nations to provide monetary support and to offer refugee resettlement placements has contributed to the development of Italian immigration policies that needlessly endanger lives. Since 2014, Italy's immigration policy has pivoted to focus on the externalization of its borders to deter oceanic journeys from earlier inception points.

The motivation to prevent arrivals is to clandestinely rid the country of having to fulfill the obligations of the EU's Dublin Regulation, which assigns the responsibility for processing the claims of asylum-seekers and immigrants based on the country of first arrival. Once individuals disembark on Italian shores, they are entitled to due process regarding any asylum claims, and the Italian government must ensure its completion. While asylum claims are being processed and adjudicated, Italy has the sole obligation to house applicants in a reception center.

Critics of the Dublin Regulation often claim that there needs to be more responsibility-sharing when it comes to mass migration. Without regional agreements that would systemically resettle asylum-seekers and immigrants in other countries, the coastal EU countries remain disproportionately affected by irregular migration and its corollary responsibilities and costs.

For this reason, the Italian aversion to immigration has manifested in maritime interception efforts, obstruction of humanitarian rescue ships from docking, and the domestic legal criminalization of arrivals. The governments of Italy, Tunisia, and Libya have also cooperated to intercept ships of asylum-seekers and immigrants headed for Italy, often interfering with the efforts of humanitarian rescue operations and jeopardizing lives. Rescue ships that have reached Italian shores have been held up for days and weeks before being turned away and directed to have the migrants disembark in other countries.

In the fall of 2013, the Italian government launched the year-long Operation Mare Nostrum with the mandate of decreasing the number of oceanic deaths. It was a direct response to the capsizing of two boats off the coast of Lampedusa, where over 600 individuals died.[40] The Italian Navy, with the EU's border security agency, Frontex, rescued over 150,000 asylum-seekers and immigrants. However, critics argued that it was incentivizing migration and too costly: the European Commission provided €1.8 million to run the operation for a year.[41]

The Frontex-led Operation Triton replaced Operation Mare Nostrum to the concern of many human rights advocates because it prioritized "border control and surveillance" rather than search and rescue.[42] Fifteen EU member states contributed to a much more limited effort: unlike Mare Nostrum, which patrolled waters right up to the Libyan coast, Triton's ships only patrolled within 30 nautical miles of the Italian coast.[43] The objective of

---

40   United Nations, United Nations High Commissioner for Refugees, "UNHCR Concerned over Ending of Rescue Operation in the Mediterranean," news release, October 17, 2014, UNHCR, accessed April 8, 2019, ttps://www.unhcr.org/news/briefing/2014/10/5440ffa16/unhcr-concerned-ending-rescue-operation-mediterranean.html.

41   European Commission, "Frontex Joint Operation 'Triton' – Concerted Efforts to Manage Migration in the Central Mediterranean," news release, October 7, 2014, European Commission, accessed April 8, 2019, http://europa.eu/rapid/press-release_MEMO-14-566_en.htm.

42   https://www.bbc.com/news/world-africa-30039044

43   "Operation Triton: Europe's Mediterranean Border Patrol," BBC News, November 13, 2014, accessed April 09, 2019, https://www.bbc.com/news/world-africa-30039044.

decreasing sea arrivals to Italy was achieved, but at an extremely high cost: the International Organization for Migration reported that deaths at sea in the Mediterranean region increased ninefold after the end of Operation Mare Nostrum.[44]

Other efforts to control and halt immigration have varied in success depending on the enforcement capacity of Tunisia and Libya. Detention centers have been constructed by both governments, with support from the European Union (EU), to control the influx of asylum-seekers and immigrants. Italy and Libya have faced a barrage of legal challenges as a result of their cooperation, with allegations of violating international and regional asylum and refugee law.

The looming question for Italian policymakers—spanning back to the Albanian asylum-seekers and immigrants of the 1990s—is what to do with those rejected for legal residence. Up until this point, there still has not been a large-scale campaign of detention and deportation in Italy, as with Albanian immigrants.

Under Salvini's helm, that may soon change as he plans large-scale, systemic detention and deportation for all asylum-seekers and immigrants. His promise to deport 500,000 people from Italy may placate the worries of Italian citizens, but it is likely unviable because Italy does not have the infrastructure to deporting asylum-seekers and immigrants en masse. In 2017, Italy deported 6,514 migrants, and 5,817 in 2016.[45]

According to Federico Soda, the director of the International Office of Migration's Mediterranean office, if Italy wants to increase these numbers substantially, the government would have to form deportation agreements with each migrant's country of origin.[46] This would be a difficult task as many countries have no incentive to form these agreements. And, in 2017 alone, over 60 countries of origin were recorded at Italian ports.[47]

Not only will large-scale deportations be unfeasible, but they will also prove costly endeavors. According to Italian law, two government agents have to accompany each deportee as they travel back to their country of origin.[48] It is estimated that for a recent deportation flight involving 29 Tunisians, 74 government agents, including doctors, nurses, and policy officers, had to accompany the deportees. [49] The cost of the operation is estimated at $135,000, or $4,600 per deportee.[50] If Italy plans to deport 500,000 people, it could cost the Italian government nearly $2.3 billion.

Michael Flynn, executive director of the Global Detention Project, notes that money is not the only cost of such a policy, as deportation would "do irreparable physical and psychological damage to thousands

44   United Nations, United Nations High Commissioner for Refugees, "UNHCR Concerned over Ending of Rescue Operation in the Mediterranean," news release, October 17, 2014, UNHCR, accessed April 8, 2019, ttps://www.unhcr.org/news/briefing/2014/10/5440ffa16/unhcr-concerned-ending-rescue-operation-mediterranean.html.
45   Holly Ellyatt, "Italy's New Leaders Vowed to Expel 500,000 Illegal Migrants - but It'll Cost Them," CNBC, June 05, 2018, accessed October 15, 2018, https://www.cnbc.com/2018/06/04/pack-your-bags-italys-new-leaders-tell-500000-illegal-migrants--but-itll-cost-them.html.
46   ASGI, "Statistics," Statistics - Italy | Asylum Information Database, accessed October 15, 2018, https://www.asylumineurope.org/reports/country/italy/statistics.
47   Ibid.
48   Soeren Kern, "Italy: "The Party Is Over" for Illegal Migrants," Gatestone Institute, June 4, 2018, accessed October 15, 2018, https://www.gatestoneinstitute.org/12448/italy-illegal-migrants.
49   Ibid.
50   Ibid.

of people, many of whom have already suffered unspeakable tragedy and trauma."[51] Alacqua raised the point that while it is true some originally do not leave their countries as refugees, but as economic migrants, they may acquire refugee status during their journey based on the harsh conditions they endure. Furthermore, the weaponization of deportation as a politically expedient tool could cost Italy its credibility as a liberal democracy that is committed to upholding international and regional human rights law and policy.

However, this is only important insofar as Salvini and other Italian leaders care about belonging to a comity of liberal democracies, which is doubtful. Salvini has proven that he will go to potentially criminal lengths to uphold his hard-line immigration aspirations. In August 2018, Salvini stalled the Ubaldo Diciott rescue ship carrying 177 asylum-seekers and immigrants onboard from disembarking in Catania, where it docked after being stranded at sea for five days.

Before disembarkation, which occurred six days into the confrontation, Salvini wanted assurance that other nations would resettle the migrants . As a result, an Italian court launched an investigation into whether he could be tried on charges of kidnapping, illegal confinement and abuse of power. Despite the court recommendation that he stand trial, Salvini doubled down on his actions, stating, "I did it, and I'd do it again."[52] The Italian Senate eventually voted to halt the investigation in February 2019, against warnings from the International Court of Justice that this could undermine the rule of law.

New Frontiers: Balancing Rights and Realities

The one consistent fact that has persisted throughout Italian history is the consistency of migration. Regardless of the political party in power, the public opinion of foreigners, and the demographic makeup of Italy, people have always arrived on Italian shores seeking new lives free from persecution and fear. However, in this political moment, Italy has the possibility to guide the course of Italian asylum and immigration policy for years to come. The deterrence campaign undertaken by Frontex has proven to be effective in deterring sea arrivals, which have significantly decreased in 2018 compared to 2017.[53] If Salvini delivers on his threat to undertake a massive detention and deportation campaign, sea arrivals will continue to decline.

Yet, what does "effective" immigration policy look like regionally or globally? Surely it cannot only mean the expedient and technocratic efficiency with which a country could process asylum applications, only to deny and deport those who have filed them. Effective immigration policy cannot be formulated without referring to ideas of equality and human rights: ideas member states of the European Union are committed to and champion as a moral foil to illiberal and authoritarian regimes. Decreasing

51   Holly Ellyatt, "Italy's New Leaders Vowed to Expel 500,000 Illegal Migrants - but It'll Cost Them," CNBC, June 05, 2018, accessed October 15, 2018, https://www.cnbc.com/2018/06/04/pack-your-bags-italys-new-leaders-tell-500000-illegal-migrants--but-itll-cost-them.html.

52   Tim Hume, ""I Did It, and I'd Do It Again," Says Italy's Matteo Salvini about Kidnapping Migrants," VICE News, January 25, 2019, accessed March 26, 2019, https://news.vice.com/en_us/article/yw8gkm/italys-matteo-salvini-defiant-over-possible-kidnapping-charges.

53   "Migrant Arrivals in Europe Significantly Down Despite Aquarius Controversy," International Organization for Migration, June 14, 2018, accessed October 15, 2018, https://www.iom.int/news/migrant-arrivals-europe-significantly-down-despite-aquarius-controversy.

deaths at sea is a first step towards effective immigration policy, but then how will these countries substantiate human rights for immobile refugees and immigrants experiencing violence and uninhabitable conditions? Italy and other developed nations have been attempting to treat the symptom of irregular and undocumented migration, rather than the inequality that is its root cause.

> **"WITHIN THE BOUNDS OF THE ASYLUM PROCESS, THERE IS NOTHING ILLEGAL ABOUT ENTERING A COUNTRY UNEXPECTEDLY AND UNANNOUNCED: THAT IS PRECISELY THE POINT."**

Very few would challenge that generalized conditions of violence and extreme poverty are justifiable reasons to exit one's country, but many wonder why asylum-seekers and immigrants do not seek to do this through institutional and legal means. Regarding asylum-seekers, it is important to emphasize that the asylum process entails presenting one's self at a port of entry in order to claim asylum. Within the bounds of the asylum process, there is nothing illegal about entering a country unexpectedly and unannounced: that is precisely the point. The process is designed so that individuals can immediately and expediently remove themselves from harm's way before undertaking the bureaucratic processes of legalization that usually spans years.

It is true that some individuals who claim asylum are actually economic migrants. At the heart of this contention is a definitional category that was established in the 1951 UN Refugee Convention nearly 70 years ago. The Convention was responding to a different historical context with a unique set of challenges, precisely the persecution and genocide of Jews. The promulgators of that document could not have foreseen that its protections would have to be expanded in order to include today's over 68 million displaced people in the world. Neither could they have anticipated just how dire the predicament of global inequality would become, nor the desperate lengths to which individuals would go to escape it. As the world grapples with mass migration in Italy and everywhere, the capaciousness of the Convention will have to be revisited, and ideally, expanded. The risk, however, is that if the Convention were to be made open to revision again, the exact opposite would happen.

Still, even for those seeking to be legal economic immigrants, the fact is that the process of obtaining an EU work visa is costly and complicated, favoring the wealthy and well-educated. For most EU nations, the requirements include: application forms, professional photos, a valid passport, roundtrip flight reservations, travel insurance, proof of accommodation, an employment contract, proof of academic qualifications, and proof of language proficiency. These EU work visas are specific for the member state to which one is applying, and employment must be secured in advance.

Germany has recently loosened their stringent visa requirements as a partial solution to large irregular migration flows. With the backing of business leaders, the German government passed an immigration law—

Fachkräftezuwanderungsgesetz—at the end of 2018 that promotes the recruitment of non-EU labor to fill 1.2 million skilled jobs.[54] While this law does not apply to all economic migrants, it allows skilled, asylum-seekers and immigrants who have failed to obtain status a legal pathway to residency. Many EU member states are likely to be receptive to opening their borders in a similar fashion to skilled asylum-seekers and immigrants, who they view as more likely to integrate and provide economic benefit to the country. However, this line of thinking once again substitutes the logic of human rights for that of utilitarian transactionalism. It also fails to grapple with the reality that most immigrants are unskilled non-EU immigrants whose migration would be mostly regulated if a general Schengen visa existed.

If a general Schengen visa was designed with unskilled economic immigration in mind, and without onerous requirements, irregular migration would decrease substantially. Most economic migrants undertaking the sea journey are unskilled workers, who are not seeking to arrive to Europe to benefit from welfare systems, but rather to acquire jobs that will allow them

"SHIFTING NOT ONLY THE OPINION OF THE ITALIAN PUBLIC, BUT ALSO OF ITALIAN POLITICIANS TO COMPLY WITH COMMITMENTS EXPRESSED IN CONSTITUTIONAL INTERNATIONAL HUMAN RIGHTS LAW IS NO EASY FEAT."

to make a modest living and send income back to their native countries. Some do not plan to stay in Europe forever, but rather to return home once conflicts have settled or they have earned enough to make a substantial difference in the lives of their families.

The immigrants who have arrived and are unable to both legalize their status and find employment are in the most precarious position of all: they are unwilling to avail themselves to Italian authorities for fear of detention, or deportation to Libya rather than their native country. Many resort to gang membership and prostitution in order to survive. As Nigerian gangs and Italian crime syndicates forge alliances, particularly in southern Italy, the hesitance to address a crisis of status legalization, rather than migration, is creating a problem of crime that did not exist previously. An accessible Schengen visa would ensure that individuals could safely have the opportunity to travel to Europe to find work, and a safe journey home if they were unsuccessful.

---

54   Kate Connolly, "Germany Passes Immigration Law to Lure Non-EU Skilled Workers," The Guardian, December 19, 2018, accessed April 09, 2019, https://www.theguardian.com/world/2018/dec/19/germany-passes-immigration-law-to-lure-non-eu-skilled-workers.

Shifting not only the opinion of the Italian public, but also of Italian politicians to comply with commitments expressed in constitutional international human rights law is no easy feat. It will involve a reckoning with the critical and marginal histories of the past. Advocates, activists, and aid workers are already at work, catalyzing honest conversations about how integral migration has been to the culture and development of Italy. Some defiant Italian mayors have already issued proclamations of sanctuary, resisting immigration enforcement mandates and allowing rescue ships to safely and illegally dock in their ports. Italians cannot expect to understand the present moment without reflecting on moments past, intertwined with the migrations of the Other who was the Southern Italian, the Northern Italian, the Armenian.

The reality of the global political situation is that there is an ever-widening gap between the aspirations of asylum law and policy and the willingness of nations to open their borders. The urge to collapse conversations about migration solely into matters of economic benefit and procedural expediency must be resisted, because what is fundamentally at stake are liberal democracy, human rights, and the rule of law. The question comes down to how willing nations are to understand themselves. When Italians look in the mirror, what do they want to see? A country alienated from its own history, fearfully in denial about how its development has been intertwined with the arrival of the migrant Other, or a country confidently ready to take on the migrations and mobilities of the era in stride?

Migration has always been a fact, but it has always been a problem somewhere, somehow. It is clear that the demands of human rights and the claims for economic justice must converge to generate global law and policy that allow for a common world where all can travel for any reason without the risk of drowning in the sea. In the words of Elise Domenico, psychotherapist at APS Cambalache, "Italians cry because people leave, they cry because someone arrives. They're always crying."

About the Author:

Trinh Q. Truong is a senior Political Science major focusing on theories and practices of migration, displacement, and citizenship. She is also a member of the Multidisciplinary Academic Program in Human Rights. Outside of the classroom, she is an anti-deportation advocate and does refugee integration research. Truong is originally a political refugee from Vietnam.

"A Transcript from Nature"

De-Essentializing Narratives of Imperialism in William Daniell's *The European Factories, Canton*

Beginning in 1514 with the arrival of the first Portuguese traders, the port of Canton in southeastern China became what postcolonial scholar Mary Louise Pratt calls a "contact zone":

...a "space in which peoples geographically and historically separated come into contact with each other and establish ongoing relations."[12] By the time fifteen-year-old William Daniell and his uncle, Thomas, docked at the island of Whampoa more than two centuries later in 1785, Canton, today known as Guangzhou, was a bustling center of commerce between China and Europe. It was also one of the few regions of China still accessible to Europeans. In 1757, the Qing government had issued a series of Imperial edicts confining foreign trade exclusively to the port. Known as the "Canton system," the regulations set up by the edicts had a dual purpose: "to keep the disrupting effects of foreign trade to a minimum; and to see that this trade

---

1   *Chinese Export Art and Design*, edited by Craig Clunas (London: Victoria and Albert Museum, 1987), exhibition catalogue, 12.
2   Mary Louise Pratt, *Imperial Eyes: Travel Writing and Transculturation* (New York: Routledge, 1992), 6.

brought as much money into the Imperial treasury as possible."[3] At the time of the Daniells' trip, then, Canton was not, as one might expect, a site of struggle between colonizer and colonized so much as a struggle between imperial powers for economic domination.

This fact is obscured in William Daniell's 1806 oil painting of the port, *The European Factories, Canton*, executed twelve years after he returned to England in 1794. The piece was commissioned by James Drummond, the Sixth Earl of Strathallan and a protectionist who lived in Canton from 1785 to 1807 as a prominent member of the East India Company.[4][5] In the painting, a throng of Chinese junks drift on the placid surface of the Pearl River. Behind them recedes a long row of low columnated buildings—the European "factories," or warehouses manned by mercantile agents called "factors"—flying flags from seven European nations. The expansive sky, scrawled with lacey clouds, blushes an inviting pink over the seemingly infinite progression of factories into the distance, while the boats swarming the foreground appear disorganized and fragile. To look at the work is to take in a vision of unassailable Western dominance—a vision that contrasts sharply with the tumultuous truth of European-Sino relations of the period. In this paper, I argue that Daniell's painting depicts an attempt to naturalize Western—and in particular British—hegemony over China at a time when the status of British trade in Canton was uncertain and unstable. In other words, Daniell draws upon scientific authority and painterly convention in order to create a scene of Western power triumphing over Chinese alterity, a scene that sacrifices the very authenticity Daniell was known to espouse in favor of a political message.

This argument is organized into two parts. In the first, I will consider how Daniell dichotomizes East and West in the painting, characterizing them, respectively, as embodiments of weakness and of power. In the second, I will focus on how Daniell establishes British ascendency among the Western nations represented in the work. I will conclude by examining the broader narratives in which the painting is implicated.

Throughout my argument, I will draw comparisons between the painting and an aquatint of the same scene titled *The European Factories at Canton in China*, which William produced in 1805.[6] The subtle differences between the two works reveal the process of politicization to which the painting was subjected.

---

3   *The China Trade: Romance and Reality*, edited by Frederick P. Waley, H.A. Crosby Forbes, and Kee Il Choi, Jr. (Lincoln, MA: DeCordova Museum, 1979), exhibition catalogue, 12.

4   *British Paintings 1500 – 1850* (London: Sotheby's, 1989): 105.

5   "Drummond, James Andrew John Lawrence Charles (1767 – 1851), of Tullibardine and Strathallan, Perth," The History of Parliament, accessed May 4, 2018. http://www.historyofparliamentonline.org/volume/1820-1832/member/drummond-james-1767-1851

6   Prints were typically made as popular, affordable alternatives to paintings, so it is unusual that the aquatint preceded the oil in the case of *The European Factories, Canton*. However, by the time the print was produced, William Daniell had already established a reputation as a "master engraver" whose technical skills trumped his uncle's. Friends and acquaintances recognized this fact as early as July 1800, when a family friend described in his diary a failed attempt to solicit William's work: "[Robert] Smirke called—and asked my opinion as to his proposing to [Thomas] Daniell that Wm. Daniell should execute the Aqua Tinta part of the plates he proposes to do of subjects from Tom Jones…. [Thomas] Daniell said he could not agree to it as he wished William to become a painter now" (Joseph Farington qtd. Prior 193). It is thus possible that John Woolmore, the shipowner to whom the print is dedicated, commissioned William to create an aquatint not because he could not afford a painting, but because it was what William was known to do best.

Mobility

Understanding the physical and political conditions under which the Daniells experienced Canton is crucial to understanding William's motivation for depicting the port in essentializing terms. To the Daniells, the obstructive nature of Anglo-Chinese relations was not merely peripheral knowledge mediated through newsprint, but part and parcel of their travels. Unlike Thomas Sutton, who postulates in his expansive 1954 biography of the Daniells that William's rosy portrayals of China stemmed from youthful ignorance of the anxiety bubbling beneath the port's exotic exterior, I provide this context in order to suggest that William was, in fact, all too aware—and that his awareness supplied the reactionary impulse behind The European Factories, Canton.[7]

The Daniells visited Canton twice, first in 1785 and again in 1794.[8] Though the visits totaled several months, the port was in fact merely a layover in the Daniells' journeys to and from India. There, they planned to follow in the footsteps of the artist William Hodges, one of the first professional British landscape painters to visit the country. But it was much easier to secure passage to China, which by the 1780s was "the most important commercial destination for the East India Company's ships," than to locate a direct route. From Canton, the trip to Bengal would only take an additional eight weeks.[9]

In order to obtain any passage to Asia, however, the Daniells first had to receive permission from the British East India Company. The conclusion of the Seven Years' War in 1763 had effectively cemented Britain's status as the foremost imperial power in Europe, and the East India Company was the agent of that status.[10] More than an economic entity, the joint-stock company held enormous influence both in Britain and in its overseas outposts. Its Court of Directors maintained ties to Parliament and the Admiralty, and at the height of its power in the early nineteenth century, the East India Company served administrative and military functions in India—essentially governing the colony.[11] Clearance to travel was not guaranteed—the artist Johan Zoffany was denied passage on the Company's ships—but on December 1, 1874, the Company granted Thomas Daniell permission to "proceed to Bengal to follow his profession of an engraver,"

"DANIELL DRAWS UPON SCIENTIFIC AUTHORITY AND PAINTERLY CONVENTION IN ORDER TO CREATE A SCENE OF WESTERN POWER TRIUMPHING OVER CHINESE ALTERITY, A SCENE THAT SACRIFICES THE VERY AUTHENTICITY DANIELL WAS KNOWN TO ESPOUSE IN FAVOR OF A POLITICAL MESSAGE."

7   Thomas Sutton, *The Daniells: Artists and Travellers* (London: The Bodley Head Limited, 1954), 18.
8   Katherine Prior, *An Illustrated Journey Round the World* (London: Folio Society, 2007), 3, 179.
9   Ibid., 2.
10   *William Hodges, 1744 – 1797: The Art of Exploration*, edited by Geoff Quilley and John Bonehill (London: National Maritime Museum, 2004), exhibition catalogue, 1.
11   Ibid., 35.

and ten days later extended approval to William to accompany his uncle as an "assistant."[12] On April 7, 1785, the pair departed England from the town of Gravesend on board the Company ship the Atlas.[13] The Daniells' travels thus began with the blessing of the institution, both literal and figural, of British imperialism.

The balance of power shifted once the Daniells arrived at the Portuguese settlement of Macao on August 22. European ships were not permitted to dock at Canton. Besides the obvious reason—that Chinese authorities "had no desire to see large foreign ships close to the city"—the Pearl River delta was also difficult for large vessels to navigate.[14] Consequently, ships first paused at Macao to take on professional pilots, who steered them from the South China Sea through the fortified Bocca Tigris Strait and into the mouth of the delta. There, river pilots took over, directing the ships down the Pearl River to Whampoa, an island about twelve miles from the port of Canton. Chinese port authorities could delay the already-fitful process further by withholding permits to proceed (though the Atlas appeared to have averted this problem with bribes).[15] Nor was the journey over at Whampoa: to reach the mainland, Europeans had to pay "six to ten dollars" to be ferried into the port on Chinese passage boats. These boats, which appeared to naval surgeon James Johnson "like little floating castles" propelled "by oars fixed on each quarter" when he made the journey in November 1804, forced their customers into the role of tourists. The volume of traffic on the river made movement slow, and the boats were designed to allow passengers to "sit and drink tea, or loll on sofas, at their ease" while gazing at the passing scenery.[16] Though Johnson found the trip stimulating, the tourist pose, desired or not, held Westerners at a distance and framed them, on this last leg to the city, as outsiders.

William's painting is probably based off of sketches made by him, or, more likely given his lack of experience, by his uncle from the deck of one of these passage boats. From no other location would the Daniells have been close enough to shore to render the factories in such detail—Whampoa Island, the closest landmass to the port, would have been too far away for the artists to see even the shoreline. The painting also places the viewer in the middle of the river, a position the Daniells could only have occupied while standing or sitting on the deck of a ship. The sluggish progress of a Chinese passage boat would have afforded them ample time to draw the junks crowding the river and the warehouses rising in the distance.

Interestingly, however, the painting offers no indication that a passage boat deck was the platform from which the scene was observed. The viewer is instead positioned above the river, scrutinizing it from an inhuman height as an estate owner might look out over a property. Though vantage points that implied a godlike sense of ownership were popular in landscape paintings, it seems probable that William chose this perspective not merely out of artistic sensibility, but out of political purpose. After all, the artist would have had

12   Sutton, *The Daniells*, 15.
13   Prior, *An Illustrated Journey*, 3.
14   *Paintings of the China Trade: The Sze Yuan Tang Collection of Historic Paitings*, edited by Patrick Conner (Hong Kong: Hong Kong Maritime Museum, 2013), exhibition catalogue, 6 – 7.
15   Prior, *An Illustrated Journey*, 11 – 17.
16   James Johnson, *The Oriental Voyager, Or, Descriptive Sketches and Cursory Remarks, on a Voyage to India and China, in His Majesty's Ship Caroline, Performed in the Years 1803-4-5-6*, qtd Prior 14.

no reason to make explicit—and indeed would have had reason to obfuscate—the fact that the only position from which he could create the scene was one controlled on multiple levels by an alien competitor for imperial hegemony. On the Pearl River, the Daniells lacked both local agency (their view of the port was controlled by the progress of a Chinese boat steered by a Chinese pilot) and legal agency (their view was so controlled because the Qing government prohibited European ships from approaching Canton). The lack of a viewing platform within the painting can thus be read as reactionary: by floating the viewer above the scene, William effaces the painter's presence and shifts the viewer's attention away from the artifice of compositional construction. As a result, the perspective takes on an empirical attitude, and the viewer's sense of ownership becomes a naturalized element of their gaze.

Compounding the frustrations of mobility on the water were additional restrictions on shore. Licensed Chinese merchants called "Hong" regulated all commercial activities. Outside of the trading season, which lasted from October to March, resident traders were "required by the Chinese policy… [to withdraw] to Macao," where their families lived year-round—women were prohibited from entering the port. For the male traders and visitors who were allowed to step on shore at Canton, movement was limited to the area around the warehouses known as the Foreign Factory Site. The enticing city proper was gated and guarded. Instead, foreigners experienced a vision of China tailored to their tastes: shops around the factories boasted signs written in English and sold lacquer, carvings, porcelain, and other objets d'art manufactured for Western consumption. Though these pieces of export art were far from "authentic" representations of Chinese culture, the European vogue for chinoiserie ensured that the port shops dealt a lively trade in souvenirs. As one Briton wrote, "It is almost impossible to see them… without feeling tempted to purchase."[17] Designed to seduce travelers and induce consumption while obstructing access to the interior, the Foreign Factory Site itself thus acted as a subtle microcosm of Chinese control over foreigners.

These limitations are, once again, disguised in The European Factories, Canton. Instead, William Daniell presents the Foreign Factory Site as a zone ceaselessly expanding both physically, into space, and temporally, into the future. The shadowy mass of Chinese junks to the left and the large flower boat to the right serve as a repoussoir frame. Between them, the eye ricochets through the tangled mass of fishing boats and house boats to land comfortably on the geometric forms of the warehouses, which are angled so as to appear to extend far into the distance. Subtle details nudge the viewer along the buildings and into the painting: all of the flags flutter to the left, drawing the eye inward, while their poles amplify the orderly progression of the columns below and establish, in the words of one curator, "a rhythm across the canvas which [sic] suggests the march of commercial progress."[18] Even the scalloped edges of the clouds direct the viewer's gaze toward the sky flushing above the farthest of the warehouses. Though in reality the factories spanned only a few hundred yards, they appear in the painting to parade into infinity.[19]

Comparing The European Factories, Canton with Chinese export

17   Fa-ti Fan, *British Naturalists in Qing China: Science, Empire, and Cultural Encounter* (Cambridge, MA: Harvard University Press, 2004), 15 – 17.
18   *The European Factories, Canton*, wall label record, May 19, 2005, Yale Center for British Art.
19   Fan, *British Naturalists in Qing China*, 15.

"

BY RE-READING HISTORICAL CONTEXT INTO THE WORK... WE CAN BEGIN TO RECOGNIZE THE COMPLEX WEBS OF AGENCY, MOTIVATION, AND POWER EMBROILING BOTH EAST AND WEST AND CHALLENGE THE ESSENTIALIZING NARRATIVES OF DIFFERENCE THAT PAINTINGS LIKE DANIELL'S HAVE TAUGHT US TO INTERNALIZE.

paintings of the period reveals the extent to which William misrepresented the expansiveness of the port. Though export artists attempted to appeal to Western consumers by replicating the conventions of Western artwork, the hybrid works they created were only superficially mimetic: they lacked the intellectual impulse of the European academic tradition. While no work of art can truly be considered "accurate," these export artists at least did not share the same ethos of representation as European artists; their work thus makes for useful comparative material. A nineteenth-century oil painting titled Hongs at Canton, China by an unidentified Chinese artist (or, more likely, artists, because export paintings were typically manufactured assembly line-style in workshops) depicts the same stretch of buildings as represented in The European Factories, Canton. Here, however, the viewer confronts the façades head-on, rather than at an angle; the warehouses appear flat rather than endless. Most importantly, one can see the terminus of the factory region to the left of the Danish warehouse, where the graceful Neoclassical-esque columns abruptly give way to tightly-spaced rows of low, dark buildings. Daniell's painting gives no indication that such an inelegant depot awaits in the distance.

One may argue that the factories of the painting entice the viewer much as their real counterparts must have enticed the Daniells as they approached the shore via the Pearl River. Doubtless their first sightings of the exotic port enchanted the artists upon arrival, and doubtless, too, they could not tell from sight just how constrained they would be on land. However, such an interpretation does not account for the fact that the Daniells did not experience Canton solely by sight and from a distance; indeed, they knew from the experience of several months just how limited an area the Foreign Factory Site occupied. And the pair almost certainly felt frustrated by the restrictions imposed on their ability to explore the Chinese interior. Aping expertise, both uncle and nephew published several works depicting scenes they could never have seen, scenes they conjured almost entirely from the imagination to feed the European hunger for Oriental imagery. William's 1810 painting A View in China: Cultivating the Tea Plant, for example, illustrates a process that, at the time of the painting's creation, was still a well-kept secret from foreigners due to the importance of tea as an export product.[20] Kee Il Choi, Jr., has argued that the artist made the painting by copying the composition of a Chinese export work depicting a similar scene.[21] Likewise, the Daniells' 1810 book of watercolors A picturesque voyage to India, by the way of China features several plates of "Chinese ladies" holding opium pipes and promenading around their gardens on bound feet—scenes that, notwithstanding their inherent absurdity, would not have been accessible to prying foreign eyes. Given their desperation to transcend the restrictions of the Foreign Factory Site with their imaginations, then, it seems improbable that either William or Thomas would have retained any illusion of the port's expansiveness. Its exaggerated glory in paint must therefore be an intentional fabrication.

If the buildings of the painting are dynamic entities, it is the ships that are, ironically, the static ones. By drawing a sharp contrast between the (literal) immobility of the ships and the (figural) mobility of the buildings, William distorts the reality of his experience in the port, emphasizing the advancement

20   *Chinese Export Art and Design*, 16.
21   *The China Trade: Romance and Reality*, 34 – 35

of Europe's economic interests in the face of Chinese physical and technological inertia. Though the ships—with their stiff sails, human pilots, and oars—are well-equipped to move, nothing in the painting indicates that they actually do move. They leave imperceptible trails in the water and reflect almost perfectly in its surface, as though the river were a mirror on which they had been placed. The water itself seems less liquid than solid: despite its luminosity, it appears viscous and impenetrable, an effect that is enhanced by the even, almost-invisible brushstrokes comprising its mass.

The political ethos driving this representation becomes even more evident when the painting is compared with the aquatint produced a year earlier. Here, the existence of a current is undeniable. Bands of light and dark ripple across the water. Though the ships' reflections still look unnaturally developed, the variegated streaks interrupt them to create a sense of depth and motion. The difference in mobility may in part be attributed to medium—with aquatint, William could etch in the ripple lines and stipple the areas between them to create patches of light and dark—but the effect of the change is too dramatic to be put down solely to technique. In the aquatint, the river and ships appear lively, busy; in the painting, they look frozen and dark. Distinct from the change in medium, William also removes the sail—the very means of propulsion—of the flower boat on the painting's right. Read alongside the inflated expansiveness of the European factories, William's decision to arrest the movement of the Chinese ships in The European Factories, Canton suggests a desire to essentialize the difference between stagnant East and progressive West.

In this section, I have argued that the Daniells' experience of restricted mobility in Canton motivated William to create a distorted view of the port in his 1806 painting. He did so not because he misunderstood the frustrations of being a foreigner in China at the end of the eighteenth century, but because he knew it all too well. The anxiety provoked by seeing European superiority challenged by the Qing Imperial government triggered a desire to emphasize that superiority in art. The resultant painting inflates the presence of the European factories while hampering the mobility of the Chinese ships, framing European-Sino relations in a false dichotomy of power.

Macartney

In this section, I narrow my focus from European-Sino relations to British-Sino relations. As British artists, sailing on ships belonging to the British East India Company, the Daniells very much felt themselves to be representatives of their home nation. William's nationalism is reflected in The European Factories, Canton, which, though it presents a vision of Western ascendency as a whole, emphasizes the leading role of Britain within that whole.

British-Sino relations came to life for the Daniells in the intersection of their second visit to Canton while en-route back to England in 1794 with the end of the first British diplomatic mission to China.[22] Led by Lord George Macartney, the Earl of Lissanore, and commissioned by King George III to inaugurate a treaty-based relationship between the two nations, the embassy

---

22   Prior, *An Illustrated Journey*, 179.

arrived at the port of Taku (Tianjin) on August 5, 1793.[23][24] The delegation had several objectives: to establish a permanent ambassador at the Imperial Court in Beijing, to improve trading conditions in Canton, to open new trading ports in north and central China, and to obtain an island that could be settled and governed under British law, much as Macao was governed by the Portuguese.[25][26] With these changes to the British position in the China trade, the embassy hoped to evade both Chinese and Portuguese control while assuming the freedom and stature they felt befit their status as the foremost imperial power in the West and, so they believed, in the world.

Perhaps unsurprisingly, the embassy was a dismal failure. Despite careful planning, the British were ill-equipped for the mission. Interpreters had to be sourced from Naples because none could be found in Britain.[27] The embassy's gifts, which included a Herschel telescope, a planetarium, artillery pieces, air pumps and carriages, Wedgwood pottery, chandeliers, clocks, and watches, were all considered useless knick-knacks and accepted as tribute rather than as presents given by a nation of equal standing.[28] Though Macartney met with the Qianlong emperor several times between September 14 and October 7, when the delegation departed Beijing for Canton, his entreaties were made—unbeknownst to him—in vain.[29] The official Chinese reply to the embassy rejecting all of its demands had been drafted three days before the mission even arrived.[30] The message was not only dismissive but patronizing:

> *Our Empire produces all that we ourselves need. Your mechanical toys do not interest us in the least. But since our tea, rhubarb and silk seem to be necessary to the very existence of the barbarous Western peoples, we will, imitating the clemency of Heaven, Who tolerates all sorts of fools on this globe, condescend to allow a limited amount of trading through the port of Canton.[31]*

The embassy's failure soured Western perception of the Chinese. The British began to view China "as a weak and vulnerable nation which should be forced to modernise."[32] This new cultural attitude flowered through the first decades of the nineteenth century and led to the forced breakdown of the Canton system in 1839 as China struggled with an opium crisis manu-factured by British smugglers, who created the market for European goods

---

23   Pritchard, Earl H., "The Kotow in the Macartney Embassy to China in 1793," *The Far Eastern Quarterly* 2, no. 2 (1943): 163 – 164, accessed May 3, 2018. http://www.jstor.org/stable/2049496

24   The delegation's refusal to adhere to convention and dock at Canton disconcerted Chinese officials, whom Macartney placated by claiming that the long overland trip from Canton to Beijing would damage the fragile gifts he had brought for the emperor. This was the first of many missteps taken by the embassy, including the now-famous refusal of Macartney to perform kowtow, a display of respect to the emperor during which one kneels and knocks one's head on the floor. However, the failures of all previous European embassies (including those of the Dutch, whose members had performed kowtow) suggest that Macartney would have failed in his mission regardless of his willingness to follow Chinese customs (Wood 60).

25   Pritchard, "The Kotow in the Macartney Embassy," 163.

26   Rogério Miguel Puga, "Lord Macartney's Embassy to China, 1792 – 1794," in *The British Presence in Macau, 1635 – 1793*, (Hong Kong: Hong Kong University Press, 2013): 124.

27   Fan, *British Naturalists in Qing China*, 18.

28   "The Macartney Embassy: Gifts Exchanged Between George III and the Qianlong Emperor," Royal Collection Trust, accessed May 3, 2018. https://www.royalcollection.org.uk/collection/themes/trails/the-macartney-embassy-gifts-exchanged-between-george-iii-and-the-qianlong

29   Pritchard, "The Kotow in the Macartney Embassy," 164.

30   Wood, Frances, "Britain's First View of China: The Macartney Embassy 1792 – 1794," *RSA Journal* 142, no. 5447 (1994): 60, accessed May 3, 2018. http://www.jstor.org/stable/41376393.

31   *The China Trade: Romance and Reality*, 5.

32   Puga, "Lord Macartney's Embassy to China, 1792 – 1794," 129.

that the Qianlong emperor had dismissed as nonexistent in 1793.[33] It was while living in a London mired in this attitude that William Daniell painted *The European Factories, Canton* in 1806.

In the meantime, however, the Daniells received only a taste of the mission's disheartening aftermath. After several grueling and unsuccessful attempts to return to England, uncle and nephew landed in Canton for the second time on January 3, 1794, on board the East India Company ship the Exeter. In the port, they spent several days with Thomas Hickey, a portrait painter whom the Daniells had met in Calcutta and who was serving as the official artist of the Macartney Embassy, and William Alexander, the delegation's official "draughtsman." Though the two pairs of artists did not overlap for much more than a week, Hickey and Alexander's disappointment with the mission, both politically and as an opportunity to sketch the Chinese interior, colored the Daniells' last impressions of China.[34] [35] For William Daniell, who was only twenty-four years old, spending time with Hickey and Alexander meant that the failure of the delegation was not merely a news item, but an event with emotional weight. To the Daniells, then, the Macartney Embassy was a human situation as well as a political one. The Daniells left China in the same convoy as Hickey, Alexander, and the rest of the delegation in mid-March and reached England in December 1794.[36]

Though their second trip to Canton gave them an additional ten weeks to make sketches, William's painting is likely based off of drawings made on their first trip, in 1785. Both the painting and the aquatint that preceded it

"HICKEY AND ALEXANDER'S DISAPPOINTMENT WITH THE MISSION, BOTH POLITICALLY AND AS AN OPPORTUNITY TO SKETCH THE CHINESE INTERIOR, COLORED THE DANIELLS' LAST IMPRESSIONS OF CHINA."

appear to have roots in a soft-ground etching of a nearly identical scene, dated between 1785 and 1800, which may have been produced as a study for the print. The composite nature of these three depictions of the European factories is supported by the fact that several of the ships are portrayed similarly to those represented in A *picturesque voyage*, signifying that the works originated from the same source sketches. In any case, both etching

---

33   Peter C. Perdue, "Rise & Fall of the Canton Trade System – III," MIT Visualizing Cultures, accessed May 3, 2018. https://ocw.mit.edu/ans7870/21f/21f.027/rise_fall_canton_01/pdf/cw03_essay03.pdf
34   Prior, *An Illustrated Journey*, 179 – 182.
35   Macartney had forced the artists to stay behind in Beijing while the rest of the convoy traveled to the emperor's summer residence in Jehol. William Alexander complained to the Daniells about the injustice at sufficient length that Thomas felt compelled to recount the situation to a family friend upon their return to England, who, in turn, noted it in his journal: "When Lord Macartney went from Pekin to visit the Emperor of China, He left the two artists [Hickey and Alexander] behind painting banners &c. with the King of Englands Arms &c. to decorate tents &c. for a proposed shew. Thus they were deprived of seeing a country which is said to be beautiful and romantic, particularly beyond the celebrated China Wall…. Alexander complained that Hickey refused to supply him with paper & pencils when he required them, though a large stock was laid in of which Hickey had the care" (Joseph Farington qtd Prior 181).
36   Prior, *An Illustrated Journey*, 182 – 193.

and aquatint can be dated to 1785 by the appearance of the factory flags: the second flag from the left is the white Bourbon flag flown by the French government before the French Revolution replaced it with the tricolor in 1789, and the American flag, which was not erected until 1799, is missing. Significantly, the 1806 painting includes both the updated French tricolor and the American flag, which is squeezed (somewhat awkwardly) between the French and Swedish ones. These amendments would appear to suggest that William Daniell wished the oil painting to present a more current view of the European factories than the aquatint executed a year earlier.

However, certain discrepancies call this hypothesis into question. According to Patrick Conner, the "Danish, French and Swedish flags had all

"WILLIAM IS INTERESTED NOT IN THE 'PROSPERITY AND PROBITY' OF THE WEST AS A WHOLE, BUT IN THE 'SUPERIOR ELEGANCE OF THE BRITISH FACTORY' – A POLITICAL STANCE THAT MANIFESTS IN HIS TREATMENT OF THE FACTORY FLAGS."

disappeared since the turn of the century"; a Chinese export reverse glass painting from 1805 accordingly leaves out the French flag, while an export oil painting from between 1815 and 1822 shows only the Spanish, American, British, and Dutch flags.[37][38] A more current view, then, would feature at most only six of the seven flags William paints into *The European Factories, Canton*. His decision to include all seven—to add flags when historically relevant but not to remove them—indicates that he was driven not by a concern for "accuracy" but by a desire to dominate the view with recognizable emblems of European nationalism.

Among those emblems, Britain's flag is foremost. It is second in size only to the Dutch flag, which is closer to the foreground and therefore should be larger anyway. In fact, the Union Jack is disproportionately large— it spans almost twice the width of the Swedish flag, which is much smaller than its position within the painting's system of perspective suggests it should be—and stands proudly apart from the cluster of flags to its left, even though Chinese export paintings indicate that the flags were planted equidistant from one another. William further enhances this vision of superiority with his careful rendering of the veranda jutting from the British warehouse. This structure, with its generous pediment, delicate railings, and open balco-

---

37   *Paintings of the China Trade*, 15.
38   No image of the export oil painting is available for reproduction online, but it appears as the second catalogue entry in *Paintings of the China Trade: The Sze Yuan Tang Collection of Historic Paintings*, ed. Patrick Conner.

ny milling with people, far outshines the narrow Dutch veranda to its right; it draws the eye toward the central architectural feature of the entire factory row. William made his faith in Britain's dominance explicit in *A picturesque voyage*, when he concluded a caption with the following:

> *In this animated scene it is pleasing to our countrymen to observe the superior elegance of the British factory; and so honourable is the character of the East India Company, that boxes of dollars bearing their stamp pass through China like bank notes in England. In such estimation is the commercial prosperity and probity of our country in that remote corner of the globe.[39]*

In other words, William is interested not in the "prosperity and probity" of the West as a whole, but in the "superior elegance of the British factory"—a political stance that manifests in his treatment of the factory flags.

Most telling of all, however, are the alterations William made to the ship gliding towards shore at the center of The European Factories, Canton. The vessel's counterpart in aquatint is unremarkable but plausible. Although its sails are triangular rather than trapezoidal, the craft is not obviously European: like the sails on the Chinese ships, its sails are ribbed and dun-colored; the white flag flying from the top of its mast is tiny and illegible, projecting neither pride nor national allegiance. In the painting, however, the ship becomes the ultimate symbol of British hegemony. William takes advantage of the vessel's position in the middle of the Pearl River to make it a focal point. The ship trails a silver thread of foam in its wake, a sign of movement displayed by no other vessel in the painting. Without ribbing, its smooth triangular sails are classifiable as those of an English sailing sloop. They gleam a creamy white that echoes the color of the factory façades and stands out from the muddy hues of the Chinese junks. Least ambiguous of all is the small but distinctive Union Jack planted on the mast: the unmistakable brand of the British Empire.

Given the stringency of Chinese laws governing trading policy at the port, the sloop's factual presence on the Pearl River is all but impossible. But by centering it so prominently in The European Factories, Canton, and by declaring it so unequivocally British, William Daniell flouts Chinese authority and asserts a vision of Britain's ultimate supremacy over both East and West. The sloop's swift, smooth glide to shore is the antithesis of the Daniells' bureaucracy-ridden experience of traveling to and within the city. Its singularity as a representative on the water rewrites the failure of the Macartney Embassy and elevates Britain above its Western brethren. In this modified sloop crystallize the imperial ambitions of the Daniells' home country, even as the sloop's very presence in the painting runs counter to historical reality.

(After)math

The Daniells arrived in Bengal in early 1786, just a few months after William Hodges began to publish his *Selected Views in India, Drawn on the Spot, in the Years 1780 – 1783*, and *Executed in Aquatinta*.[40] Both jealous of and inspired by Hodges, the Daniells were not interested in merely representing

39   Thomas Daniell and William Daniell, *A picturesque voyage to India, by the way of China* (London: Longman, Hurste, Rees, and Orme, 1810), "South-West View of Canton."
40   Pheroza Godrej and Pauline Rohatgi, *Scenic Splendours: India Through the Printed Image* (London: The British Library, 1989), 20.

India as they saw it: rather, they wished to outdo their predecessor by "['correcting'] what they found to be Hodges's overly idealized eye."[41] Revisiting many of the sites and structures Hodges toured, the Daniells drew the scenes with the aid of a camera obscura and tracked the distance they traveled between each with a perambulator. They worked their sketches in aquatint and published them in six volumes between 1795 and 1808 as *Oriental Scenery*, the collection that would become known as their oeuvre.[42]

The Daniells, in other words, were committed to an empirical mode of representation. In their travels and their art, they embodied the popular interest in science and direct observation growing in England throughout the eighteenth century.[43] Hodges's Selected Views emphasizes to buyers the fact that they were indeed "drawn on the spot," as their title declared. The Daniells co-opted that same authenticity of presence and combined it with the objective authority of a tool, the camera obscura, which mechanizes and mediates the process of looking, in order to demonstrate their investment in scientific "accuracy." They viewed the indigenous peoples they met throughout Asia as anthropological specimens and wrote about their travels with a jaded worldliness that often belied their lack of expertise.[44] They presented their art as a paragon of veracity, writing, in the introduction to *A picturesque voyage*:

> To assist the imagination in this erratic flight is the object of the following work: delineation is the only medium by which a faithful description can be given of sensible images: the pencil is narrative to the eye; and however min-ute in its relations, can scarcely become tedious; its representations are not liable to the omissions of memory, or the misconceptions of fancy; whatever it communicates is a transcript from nature.[45]

I bring up the Daniells' commitment to empiricism now to suggest the extent to which William Daniell's distortions of the truth in *The European Factories, Canton* may have been read not as a manipulated reality but as reality itself. Few images of China existed in Britain at the start of the nineteenth century; each new depiction of the country, whether of landscape, people, or flora and fauna, would have provided a tantalizing well of information. In fact, an 1805 review of William's aquatint of the scene declares: "This is a very beautiful and interesting print, by an artist from whose previous engravings we have more than once derived some entertainment, and obtained some information, relative to objects little known to the public

41 Zahid R. Chaudhury, "Armor and Aesthesis: The Picturesque in Difference," in *Afterimage of Empire: Photography in Nineteenth-Century India* (Minneapolis, MN: University of Minnesota Press, 2012), 116.
42 Godrej and Rohatgi, *Scenic Splendours*, 47.
43 *The Pursuit of Happiness: A View of Life in Georgian England*, edited by J.H. Plumb (New Haven, CT: Yale Center for British Art, 1977), exhibition catalogue, 21 – 22.
44 The Daniells' captions throughout *A picturesque voyage* adopt this knowledgeable pose. The results are occasionally humorous: writing on the fragility of Chinese vessels, one caption notes, "Numbers of these vessels sail every season from Canton on commercial expeditions, and it is computed that ten thousand seamen perish annually in the Chinese seas. No one embarks in this perilous enterprize *[sic]* without taking a solemn farewel *[sic]* of his family and friends; and should it be his fate to return, his restoration is joyfully celebrated as a resurrection from death" ("Chinese Vessels," *A picturesque voyage*). At other times, the false expertise is dangerous, even sinister—at one point, the Daniells insinuate that the Chinese have a natural weakness for opium: "They [the British traders] draw almost all the articles of subsistence from Canton, and in return smuggle opium among the Chinese, whose fondness for this pernicious drug eludes the vigilance and baffles the authority of the government" ("Macao," *A picturesque voyage*).
45 Daniell and Daniell, *A picturesque voyage*, "Introduction."

❝

"THE PAINT-ING'S DE-PICTION OF BRITISH ASCEN-DENCY AND CHINESE INFERIORI-TY WOULD HAVE BEEN UNDER-STOOD AND INTERNAL-IZED AS FACT."

before their publication."[46] For viewers of the work at the 1806 Royal Academy Exhibition, particularly viewers familiar with the Daniells' reputation for accuracy, the painting's depiction of British ascendency and Chinese inferiority would have been understood and internalized as fact. The righteousness of British imperialism would have been reaffirmed in yet another corner of the globe.

In contemporary discussions of imperialism, we tend to emphasize the relationship between colonizer and colonized. Often neglected is the equally-significant relationship between colonizer and colonizer. But imperialism is a system of competition, a zero-sum game fought over limited capital and limited territory whose participants are not limited to Western powers. Relegating the West to the position of colonizer and the East to the position of colonized reproduces the same essentializing patterns of thinking that maintained systems of Western imperialism in the first place.

William Daniell's 1806 painting *The European Factories, Canton* takes advantage of these patterns of thinking to misrepresent layers of international relationships and present a false vision of British ascendency in Europe and in the world. Having experienced firsthand both the aftermath of the failed Macartney Embassy and the restrictions on mobility imposed by the Qing government, William would have had good reason to conceal the embarrassment of British weakness against the Chinese in his art. The resultant composition pits Eastern alterity against Western progress, while emphasizing the supremacy of Britain among the European empires.

Its message remains a convincing one: on the fourth floor of the Yale Center for British Art, the painting hangs in the Long Gallery as the centerpiece of a wall titled "British Imperialism." Surrounded by scenes of ruins and portraits of indigenous victims of colonization, it is easy—even automatic—to read the narrative of British colonizer versus colonized "other" into the work. Even when we intend this reading to critique the role of the British, we trap ourselves in an interpretation that assumes it is the West that holds the position of oppressor, rather than recognizing the struggle for dominance in which both West and East were ensnared. The programmatic nature of this assumption is the ultimate proof that William Daniell's effort to naturalize European, and British, hegemony has succeeded. It is only by re-reading historical context into the work that we can begin to recognize the complex webs of agency, motivation, and power embroiling both East and West and challenge the essentializing narratives of difference that paintings like Daniell's have taught us to internalize.

---

46   "The European Factories at Canton, in China, drawn, engraved and published by William Daniell, and dedicated to J. Woolnoth, Esq," *Monthly magazine, or, British regster*, September 1805, 165.


About the Author:

Oriana Tang is a senior English major at Yale University. She's interested in histories of imperialism.

Works Cited

British Paintings 1500 – 1850. London: Sotheby's, 1989.

Chaudhury, Zahid R. "Armor and Aesthesis: The Picturesque in Difference." In Afterimage of Empire: Photography in Nineteenth-Century India. Minneapolis, MN: University of Minnesota Press, 2012.

Chinese Export Art and Design. Edited by Craig Clunas. London: Victoria and Albert Museum, 1987. Exhibition catalogue.

Daniell, Thomas and William Daniell. A picturesque voyage to India, by the way of China. London: Longman, Hurste, Rees, and Orme, 1810.

"Drummond, James Andrew John Lawrence Charles (1767 – 1851), of Tullibardine and Strathallan, Perth." The History of Parliament. Accessed May 4, 2018. http://www.historyofparliamentonline.org/volume/1820-1832/member/drummond-james-1767-1851

Fan, Fa-ti. British Naturalists in Qing China: Science, Empire, and Cultural Encounter. Cambridge, MA: Harvard University Press, 2004.

Godrej, Pheroza and Pauline Rohatgi. Scenic Splendours: India Through the Printed Image. London: The British Library, 1989.

Paintings of the China Trade: The Sze Yuan Tang Collection of Historic Paintings. Edited by Patrick Conner. Hong Kong: Hong Kong Maritime Museum, 2013. Exhibition catalogue.

Perdue, Peter C. "Rise & Fall of the Canton Trade System – III." MIT Visualizing Cultures. Accessed May 3, 2018. https://ocw.mit.edu/ans7870/21f/21f.027/rise_fall_canton_01/pdf/cw03_essay03.pdf

Pratt, Mary Louise. Imperial Eyes: Travel Writing and Transculturation. New York: Routledge, 1992.

Prior, Katherine. An Illustrated Journey Round the World. London: Folio Society, 2007.

Pritchard, Earl H. "The Kotow in the Macartney Embassy to China in 1793." The Far Eastern Quarterly 2, no. 2 (1943): 163 – 203. Accessed May 3, 2018. http://www.jstor.org/stable/2049496

Puga, Rogério Miguel. "Lord Macartney's Embassy to China, 1792 – 1794." In The British Presence in Macau, 1635 – 1793. Hong Kong: Hong Kong University Press, 2013.

Sutton, Thomas. The Daniells: Artists and Travellers. London: The Bodley Head Limited, 1954.

The China Trade: Romance and Reality. Edited by Frederick P. Waley, H.A. Crosby Forbes, and Kee Il Choi, Jr. Lincoln, MA: DeCordova Museum, 1979. Exhibition catalogue.

"The European Factories at Canton, in China, drawn, engraved and published by William Daniell, and dedicated to J. Woolnoth, Esq." Monthly magazine, or, British regster, September 1805.

The European Factories, Canton. Wall label record. May 19, 2005. Yale Center for British Art.

"The Macartney Embassy: Gifts Exchanged Between George III and the Qianlong Emperor." Royal Collection Trust. Accessed May 3, 2018. https://www.roy-

alcollection.org.uk/collection/themes/trails/the-macartney-embassy-gifts-exchanged-between-george-iii-and-the-qianlong

The Pursuit of Happiness: A View of Life in Georgian England. Edited by J.H. Plumb. New Haven, CT: Yale Center for British Art, 1977. Exhibition catalogue.

William Hodges, 1744 – 1797: The Art of Exploration. Edited by Geoff Quilley and John Bonehill. London: National Maritime Museum, 2004. Exhibition catalogue.

Wood, Frances. "Britain's First View of China: The Macartney Embassy 1792 – 1794." RSA Journal 142, no. 5447 (1994): 59 – 68. Accessed May 3, 2018. http://www.jstor.org/stable/41376393

"Woolmore, John (1755 – 1837), of Hampton, Mdx. and Kingsterndale, Derbys." The History of Parliament. Accessed May 4, 2018. http://www.historyofparliamentonline.org/volume/1790-1820/member/woolmore-john-1755-1837
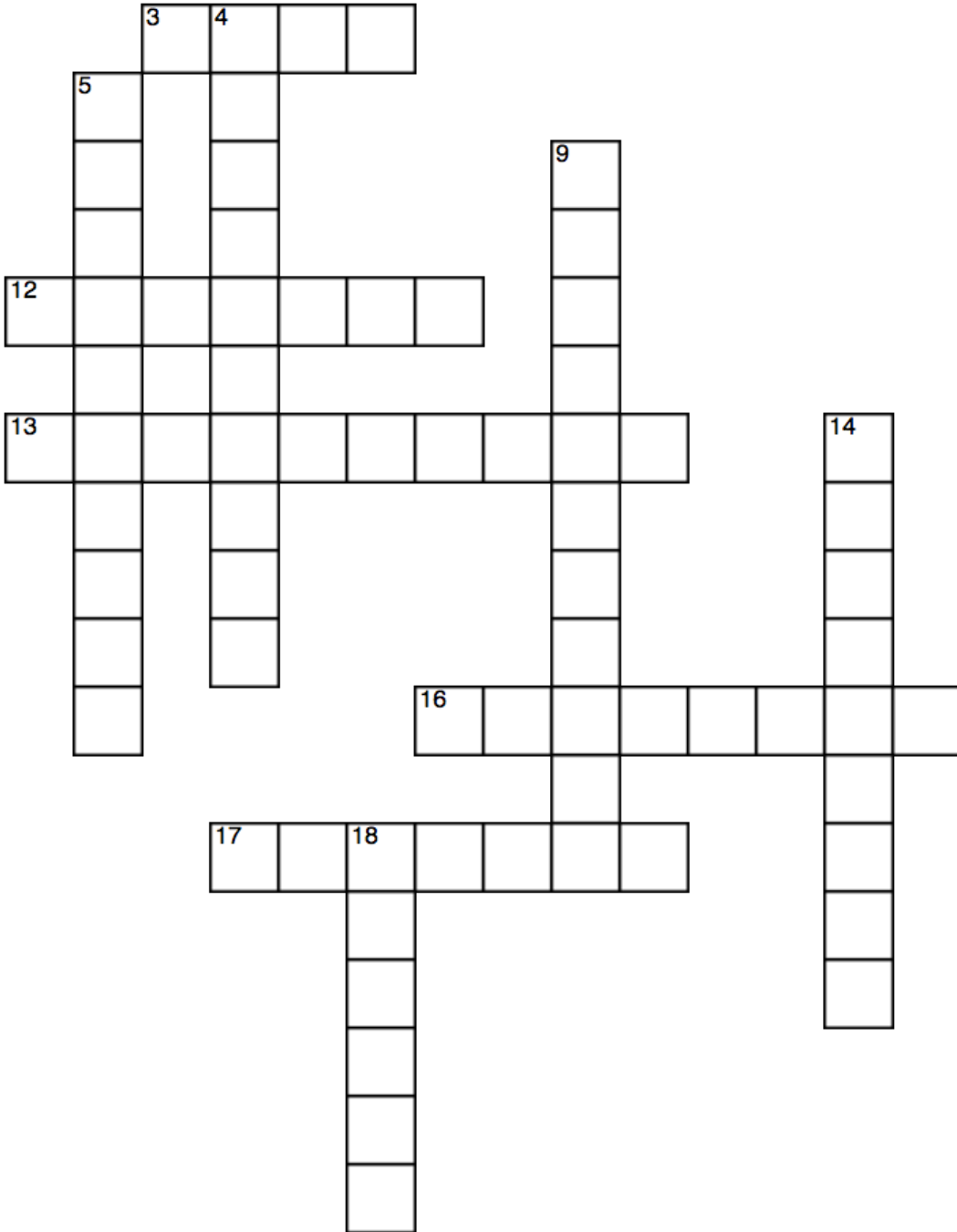
Crossword

Email a picture of your completed (by hand) crossword to yris@yira.org. Make sure your full name is written clearly somewhere on this page. ***The first 5 people to send in a completed crossword will receive a cash prize!*** One entry per person allowed. Corrections not allowed; the crossword must be complete and correct upon submission.

ACROSS

3. Both a treaty limiting nuclear weapons and a common table seasoning
11. The balance between cannons and forts, for instance.
12. This Gulf nation is an archipelago of 33 natural islands and up to 50 more man-made islands
13. The youngest country in the world
15. Not to be confused with a post-apocalyptic movie, Cape Town was recently facing Day ____
16. Former name of Amman, Jordan
17. Country with the highest rate of twin-births in the world
19. First country to recognize American independence

DOWN

1. Lesser-known author of a book titled 'The Art of War'
2. Homosexuality is now punishable by stoning in this kingdom
4. Largest desert in the world
5. Toy whose name means egg watch
6. Countries on track to meet the 1.5 degrees C Paris Agreement Goal: Morocco and _____
7. Most visited theme park in Europe: Paris' _____
8. This Francophone Canadian province is among the provinces with the youngest drinking age (18!)
9. Former head of state of Georgia
10. Name of highest grossing Chinese film
14. K-pop group that performed in North Korea
18. This country's national anthem consists of 148 verses

Noora Reffat
Honorable Mention

Developing Socially Conscious Curricula for Somali Schools:

Teaching Human Rights Where Religious, Clan Customary, and International Law Collides

S ince 1983, the Dr. Hawa Abdi Foundation (DHAF) has served Somalia by promoting peace, health, and education in Hope Village, a camp for internally-displaced Somalis that has become akin to a city.

Introduction

Since 1983, the Dr. Hawa Abdi Foundation (DHAF) has served Somalia by promoting peace, health, and education in Hope Village, a camp for internally-displaced Somalis that has become akin to a city, located outside of Mogadishu. The Foundation commissioned the Orville H. Schell Jr. Center for International Human Rights at Yale Law School in 2015 to design a curriculum on human rights and conflict resolution for use at the Hawa Abdi High School in Hope Village. Since then, a team of Yale students has designed a program that includes four modules—Identity & Self, Conflict & Conflict Resolution, Human Rights Principles & Institutions, and Becoming a Changemaker—and

encourages students to interrogate their understanding of human rights and its intersection with life and identity. The goal of the curriculum is to bolster students' confidence and understanding of rights so that they may become leaders in their community and beyond. In 2019, after piloting the first year of the program in the Hawa Abdi High School, the Yale team and the Dr. Hawa Abdi Foundation established a new partnership with Mogadishu University, in which Somali teachers-in-training will complete the curriculum themselves and take it into classrooms where they will eventually teach. If this partnership succeeds, schools around Somalia will be able to teach about human rights in a conflict context.
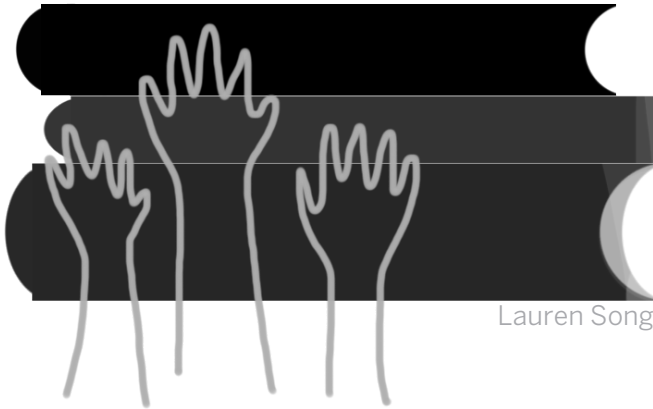
Lauren Song

Before the Yale team established this partnership, the author of this paper spent nearly four months conducting the following research in order to offer recommendations to the Yale team on how to develop specific curriculum for the Hawa Abdi High School in Hope Village. By learning about Hope Village's students and their home country, curriculum developers would be able to better incorporate features of Somali culture, religion (predominantly Islam), and laws into the curriculums that they were writing. The intention was to write a curriculum that students would be able to digest and relate to by using what they already knew — religion, culture, lifestyle — to teach them what they had not been taught — human rights, leadership, and changemaking. Incorporating relatable material is especially important in the case of human rights because, as law professor Khaled Abou El Fadl writes:

> *"Human rights commitments cannot be commanded into existence, and cannot be transplanted or borrowed from alien sources so that the borrowed may play the role of the natural borne child."[1]*

Imposing American or Western thought and practice on others is not only ethically questionable, but has also proven to be ineffective. Therefore, it was important for the Yale team developing the curriculum to draw on connections with the Dr. Hawa Abdi Foundation, in addition to doing independent research and learning about the region properly, to build curriculum designed around its intended students, and not its Western authors.

In particular, the author of this paper identified a need for increased scholarship on the differentiation of Islam from political Islam (e.g. an interpretation of Islam as a source of political identity), paying special attention to historical uses of Islam in human rights frameworks and educational initiatives. This research is necessary, for when non-profits work in Muslim-majority countries, they tend to use Islam as a means of establishing legitimacy and to better access Muslim-majority

---

1   Abou El Fadl, K. (2005, July 1). A Distinctly Islamic View of Human Rights: Does it Exist and is it Compatible with the Universal Declaration of Human Rights? Retrieved July 14, 2018, from https://www.searchforbeauty.org/2005/07/01/

"HUMAN RIGHTS COMMIT-MENTS CANNOT BE COM-MANDED INTO EXIS-TENCE, AND CANNOT BE TRANS-PLANTED OR BORROWED FROM ALIEN SOURCES..."

communities. Such attempts may be well intentioned and can seem to build trust. For instance, the Humanitarian Policy Group (HPG) looked at a non-profit in Somalia that used a religious affiliation with Islam to try and mediate their work of distributing aid across Somalia. The HPG dubbed this approach "Islamic humanitarianism" and found that Somalis generally did tend to agree that they trusted Islamic organizations more than secular ones.[2] But such efforts often result in a specific use of Islam that is politically charged and not informed by local needs. Further, these efforts were typically ineffective: affiliating with Islam did not make the non-profit analyzed by HPG any more mobile in the region or effective at negotiating with Islamic extremist groups.[3] What proved far more helpful was having strong networks and a willingness to collaborate with already established organizations in Somalia.[4]

With the expansion in use of curriculum to schools beyond Hope Village, the need to quality check the methodologies used for curriculum development becomes paramount. This scholarship, therefore, uses the project of developing human rights curriculum for Hope Village as a case study of international collaboration towards establishing educational frameworks that are locally situated but universally informed. This essay explores the complexities of human rights in a modern context. It grapples with questions of cultural relativism and how to best mediate interactions between Yale students tucked away in the ivory tower with students and educators a world away in Somalia, where barriers such as roadblocks, attacks by extremist groups, lack of funding and functioning government all impede upon access to education. How can Western understandings of human rights be bridged with local understandings in Somalia – understandings that are informed by multiple legal systems but also by consistent human rights abuses? How can the political use of Islam be parsed from its religious uses in order to illuminate the truth about sharia law and its implication for human rights? Applying anthropological methodologies, this paper serves to address these questions and others in its provision of necessary scholarship on developing socially conscious human rights curriculum for use in Somali schools in Hope Village and beyond.

Background
A Brief History of Political Islam and Sharia Law

To understand Islamic states and Muslim societies such as Somalia, it is necessary to investigate fundamental questions such as how Islam the religion is distinct from political Islam, what political Islam is, how it is used, and how it relates to the nation-state – vital questions that are seldom asked in scholarship on the Muslim world. Political Islamic movements trace as far back as the eighteenth and early nineteenth century, when the Ottoman Empire clashed with Europe and suffered a number of military defeats.[5] These defeats made subjects of the Ottoman

---

2   *Islamic Humanitarianism?* (Rep.). (2015, February). Retrieved July 7, 2018, from Humanitarian Policy Group website: https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9457.pdf
3   Ibid.
4   Ibid.
5   Dawn, C. Ernest. "From Ottomanism to Arabism: The Origin of An Ideology," in Albert Hourani et

Empire realize their ruling power was fallible and Europe was a place both to be cautious of and learn from.[6] The fall of the Ottoman Empire left behind nation-states that participated in global modernization efforts by taking cues from Europe, and it was amidst these movements that political Islam developed.

An Egyptian Imam named Shaykh al-Tahtawi was perhaps one of the first and most influential Islamic figures who wrote candidly about the ways in which the East (a word he used to refer to the Ottoman Empire and Egypt) was lacking in modernization in part because of its strict retention of religious tradition. He believed that the key to uplifting the Arab world was to adopt math and sciences in the style of the West — a word he used mostly in reference to France, where he spent five years as part of an educational mission in the 1820s.[7][8] In his writing, al-Tahtawi distinguishes between what he called the wisdom sciences and the rational sciences. The rational sciences were a religious science that was consistent with sharia (Islamic law), while the wisdom sciences were those that dealt with math and physics.[9] Al-Tahtawi criticized the West for their lack of rational sciences, admonishing Westerners for secularizing science and placing it above religion. [10] He did not believe that science was incompatible with religion, but he did think that the East needed a more flexible viewpoint on Islam in order to fully grasp the wisdom sciences.[11] He viewed ijtihad (interpretation) of Islam as a means of "social change," and viewed it as the way forward over taqlid (tradition).[12] Knowing that he was writing to a Muslim readership, al-Tahtawi was careful not to oversubscribe to science, and made it clear that an adoption of science must occur within the limits of sharia law.[13]

The history of Al-Tahtawi and his call for integration of science in Islamic societies is not only significant in how it challenges the misconception that all Western influence on the East is forced, but also because his attempts to reconcile Islam and modernity marked the beginnings of what may be called "political Islam." Researcher and academic Jocelyne Cesari argues that it is exactly the time period that al-Tahtawi was writing — after the fall of the Ottoman Empire — that political Islam began to take shape as nation-state projects erupted across the Arab world. Roughly defined, Cesari states that, "political Islam is not the outcome of an impossible clash between Western modernity and authentic non-colonized Islam," but instead "results from grafting the concepts of religion, nationalism, and secularism in Muslim territories."[14] It may be argued that al-Tahtawi's project was inherently one of nationalism: a push to modernize Egypt not because it was bad the way that is was, but because it was already good and had the potential

al. (eds.). *The Modern Middle East*. (I.B.Tauris, 2004), pp. 378.

6   Ibid.

7   Al-Tahtawi, R. (1839). *Takhlis al-Ibriz fi Tafseel Bariz (A Paris Profile)*.

8   Dawn pp. 378

9   Ibid pp. 378.

10   Al- Tahtawi.

11   Ibid.

12   Cesari, J. (2018). *What is Political Islam?* Boulder, CO: Lynne Rienner.

13   Al- Tahtawi.

14   Cesari pp. 5.

to be better. [15] Though political Islam emerged in the Arab world, the core ideology of political Islam has spread as far as the Horn of Africa — where Somalia is located.

Thus, political Islam is the result not only of European imposition, but also of internal modification in the Muslim world. Understanding this context helps to clarify that there are ways to intentionally use religion in initiatives aimed to change the thought and behavior of Muslim people. Religion may be used as a tool for helping people to learn how to act and behave in certain ways, particularly when it is used for non-faith-based purposes. Non-faith-based uses of religion become especially difficult when one considers religious law, such as the case with sharia law. Sharia law is commonly understood as Islamic law, which is accurate insofar as sharia is foundational to ways in which many Muslims understand and view legal frameworks. Literally, the word sharia translates to "the foundationhead that quenches the thirst of living beings" or, more simplistically, "the way to goodness."[16] Sharia law is revealed to Muslims through the Quran, the account of God's words exactly as they were communicated by the archangel Gabriel, written in Arabic To ensure that fiqh (Islamic jurisprudence) is understood and applied appropriately, muftis (Muslim legal experts) were and continue to be appointed to provide legal rulings and interpretation.[17] A formal legal opinion provided by a mufti, informed by the Quran and hadith (narratives and stories about Prophet Muhammad's(p) life), is called a fatwa.

The total authority of a mufti over law is dependent on which other legal schemes and systems may be established by governments in Muslim-majority countries. Therefore, it is rare that sharia would be written in an organized and consistent style, because it is based on interpretations of the Quran and is thus unstandardized. It is much more common for a nation's law to be influenced by components of sharia. As sharia law is rarely codified, scholars write in the book Law and Tradition in Classical Islamic Thought that it may instead be understood as "an ethical search that seeks to resolve conflicts and establish justice" by compelling Muslims to adhere to specific forms of conduct and detailing punishments for any transgressions.[18] The reach of sharia law is wide, ranging from information on how to enter legal contracts (Quran 2:282) to outlining the punishment for theft (Quran 5:38). When sharia law is incorporated into written law, it is not typically incorporated in its totality and is instead modified to fit into or supplement specific frameworks.

In the mid-nineteenth to early twentieth century, social reformers began to emulate Al-Tahtawi's approach of using religion as a means of advancing society, and schools were identified as the most effective location for this advancement to occur.[19] In Egypt, there was a push to make schools into places where the purpose of education was to establish social and civil

---

15   Dawn pp. 378.

16   Abou El Fadl, K. (2017). Qurʾanic Ethics and Islamic Law. *Journal of Islamic Ethics, 1*(1-2), 7-28. doi:10.1163/24685542-12340002

17   Britannica, T. E. (2018, March 29). Mufti. Retrieved July 17, 2018, from https://www.britannica.com/topic/mufti

18   Cook, M., Haider, N., Rabb, I., & Sayeed, A. (2013). *Law and Tradition in Classical Islamic Thought: Studies in Honor of Professor Hossein Modarressi.* Palgrave Macmillan.

19   Cesari pp. 26.

norms and ensure that students understood and were able to emulate these norms.[20] Before Egypt was colonized by Britain and France, schools focused on teaching facts; colonial rule introduced the idea that schools could also be places where children could be taught how to behave.[21] As a result of the large push to modernize education in a European style, Cesari writes that "the secular/religious divide, previously unheard of, became a key feature of the education system."[22] Some imams supported a more European-oriented educational system, but this support was faced by public disapproval as people worried about religion becoming obsolete or irrelevant.[23]

> "MANY GOVERNMENTS ARE CONFLICTED ON THIS ISSUE: MAKING SCHOOLS TOO RELIGIOUS MIGHT CAUSE PEOPLE TO VIEW THEM AS AUTHORITARIAN, WHILE MAKING SCHOOLS TOO SECULAR COULD CAUSE CONCERN OVER A LOSS OF ISLAMIC TRADITION."

In the years that followed, the debate over whether to use secular or religious approaches to education continued. This divide remains a controversial topic within the discussion of what curricula should look like in Muslim-majority countries. Many governments are conflicted on this issue: making schools too religious might cause people to view them as authoritarian, while making schools too secular could cause concern over a loss of Islamic tradition. To mediate this divide, many Muslim nations have employed political Islam over time as a means of reforming education in a manner consistent with the aims of their government. Often, this means that state-run schools present national identity and Muslim identity as synonymous, linking the secular mission of nationalism with religion.[24] This use of the educational sphere is significant because, as Cesari writes:

> *"By integrating Islam into the public education system, the state posits itself as the trustworthy protector of Islamic heritage and religious guidance… Socialization of religion into the national education system allows the state to effectively exert social control and determine what constitutes 'good social behavior.'"[25]*

In this way, state governments can use schools as a way of maneuvering themselves so that their authority over Islam trumps that of muftis and other Islamic scholars. Once governments have asserted this dominance, they are able to apply sharia with some flexibility to support the values and behaviors that they choose as significant. The application of political Islam in educational frameworks makes evident how susceptible sharia is to being

---

20   Ibid pp. 29.
21   Ibid pp. 33.
22   Ibid pp. 33.
23   Ibid pp. 33.
24   Ibid pp. 71.
25   Ibid pp. 71.

"

DEVELOPING A HUMAN RIGHTS CURRICULUM THAT IS EFFECTIVE AND ACCESSIBLE TO STUDENTS IN CONFLICT SETTINGS IS A CHALLENGING TASK THAT REQUIRES NUANCED THINKING ON LEGAL AND SOCIAL REALITIES ABROAD.

used in ways that support political motives, rather than religious ones.

Along with educational initiatives, there have been several attempts to incorporate tenets of Islam into international human rights law. The Universal Islamic Declaration of Human Rights Law (UIDHR) was published in 1981 and attempted to use divine Islamic text, such as the Quran, as a foundation to establish a set of human rights laws.[26] The UIDHR was written by the Islamic Council, a conservative non-governmental organization.[27] The UIDHR was intended to be modelled after the Universal Declaration of Human Rights (UDHR), but the authors of the UIDHR disagreed about which rights from the UDHR fit within sharia.[28] These disagreements meant that the resulting declaration was full of inconsistencies, according to Associate Professor of Legal Studies Ann Elizabeth Mayer.[29] Mayer contends that the UIDHR is ineffective in protecting human rights because its writers used conservative interpretations of sharia as a way of dismissing specific rights that were codified in the UDHR, where it could be argued that a different, more liberal interpretation of Islam could have protected these same rights.[30] This opportunistic approach to incorporating Islam into rights declarations ultimately poses threat to the integrity of the rights themselves. As Mayer notes, in instances where sharia is in opposition to human rights, all forms of rights — even those consistent with sharia — are more easily dismissed as being incompatible or against tradition.[31]

There are not only opportunistic approaches to using sharia law, but also explicit misuses of sharia that restrict international human rights so that they are purportedly within the confines of Islamic teachings and beliefs. As Mayer points out, many Islamic states don't actually have any sustainable or substantive human rights laws that are consistently enforced. Instead, many states borrow from international human rights declarations but "[reduce] the protections that they actually afford" by "restricting the rights so that they can only be enjoyed within the limits of sharia."[32] Limiting rights to fit within sharia can be restrictive because sharia is not codified and jurisprudence over sharia is inconsistent, allowing actors such as nation-states to define sharia as they want to. Sometimes, these definitions of sharia are very narrow, creating ambiguity over whether or not human rights law is truly applicable.[33] Lack of standardization amongst sharia's application to human rights contributes to the ineffectiveness of implementing Islam into human rights law. Scholar Khaled Abou El Fadl adds that many Arab governments "are motivated by a desire to engage the international political process far more than to define what is distinctively Islamic."[34] This statement, along with Mayer's work, supports the conclusion that some governmental initiatives to advance human rights law in the Arab world are driven not by a commitment to thinking on effective Islamic

26   Mayer, A. E. (2013). *Islam and Human Rights: Tradition and Politics*. Boulder, CO: Westview Press.
27   Ibid pp. 21.
28   Ibid pp. 21.
29   Ibid pp. 21.
30   Ibid pp. 46.
31   Ibid pp. 66.
32   Ibid pp. 66.
33   Ibid pp. 66.
34   Abou El Fadl, K. (2005, July 1). A Distinctly Islamic View of Human Rights: Does it Exist and is

tradition of human rights, but rather a desire to join the international political stage by paying lip-service to human rights standards.

The failure of the UIDHR to ratify serious human rights commitments by Muslim-majority countries brings to question sharia's implementation into human rights law, and whether or not Muslim governments are capable of drafting human rights law that doesn't rely on political Islam and ulterior motivations. Ultimately, whether discussing the UDHR or UIDHR, it is significant to first assess the conditions and context in which these declarations were written. What's more, thought must be given to whom and for whom human rights declarations were composed, as the reality of the UIDHR exposes how it is not enough for Islamic nations to commit to human rights as concepts that are reconcilable with their other value systems.

Clan Customary Law and its Relationship with Sharia

There is a lack of cohesion across Somalia's legal systems, which makes it challenging to establish common norms about human rights. There are three identifiable legal systems that have significant impact in Somalia: xeer law (clan customary law), sharia law (Islamic law), and governmental law. In part, the difficulty of establishing one, homogenized legal system is that Somalia has historically lacked an effective central government, with the introduction of pseudo-democracies occurring only after colonial powers withdrew from the country and left it to recover unsupported.[35] Anthropologist Spencer Heath MacCallum offers various sociocultural reasons for the failure of traditional democracy in Somalia. For one, he argues that having a voter system necessarily divides a people into "a group that rules and a group that is ruled" – a divide that does not naturally exist in Somalia's traditional clan-based system.[36] A second reason offered is that the intimate kinship structures that are built around Somalis' clan affiliations mean that people tend not to vote based on an issue but rather along clan lines.[37] The presence of clans therefore directly impacts the ways in which Somalis interact with democracy.

The preference for clans as an organizational structure has resulted in xeer law long being the form of governance used in Somalia in lieu of a democratic system. According to Natasha Leite, from the African Centre for the Constructive Resolution of Disputes, xeer law predates Islamic or colonial law in the region and is intended to specifically mediate disputes between clans.[38] As MacCallum points out, crime under xeer law is "defined in terms of property rights," and "the law is compensatory rather than punitive."[39] For example, when a crime is committed, the person culpable may be ordered to pay a fine and his clan or a group of

it Compatible with the Universal Declaration of Human Rights? Retrieved July 14, 2018, from https://www.searchforbeauty.org/2005/07/01/a-distinctly-islamic-view-of-human-rights-does-it-exist-and-is-it-compatible-with-the-universal-declaration-of-human-rights-vol-27-no-2-csis/

35   MacCallum, S. H. (2007, September 12). The Rule of Law Without the State. Retrieved July 5, 2018, from https://mises.org/library/rule-law-without-state

36   Ibid.

37   Ibid.

38   Leite, N. (2017, October 12). Reinvigoration of Somali Traditional Justice through Inclusive Conflict Resolution Approaches. Retrieved July 5, 2018, from https://reliefweb.int/report/somalia/reinvigoration-somali-traditional-justice-through-inclusive-conflict-resolution

39   MacCallum.

his kin may be held liable if the fine isn't paid.[40] Another feature of xeer is its lack of monopoly over policing or judicial services, meaning that any community member who is not already serving as a religious or political leader may serve in this role.[41] Additionally, there can be no victimless crimes under xeer law; a victim or his family must be the ones to initiate court proceedings.[42] Finally, each Somali is assigned a judge by their clan elders at birth, called an oday, who is responsible for judging them if they are to transgress the law at any time.[43]

"BETWEEN THE TWO LEGAL SYSTEMS, XEER LAW IS FAVORED OVER SHARIA, BUT ONE DOES NOT REPLACE THE OTHER."

According to researcher Aline Wauters, though xeer law predates sharia law in the region, the two systems are compatible.[44] One reason sharia and xeer law do not conflict is because the former is focused on punishment for crimes committed, whereas the latter is focused on retaliation and compensation for crimes.[45] Further, where sharia is based on references to written Holy text, xeer is not written down and is passed down orally to each clan member, which is how sharia is also taught.[46] There have been initiatives to codify xeer law, but it is a difficult project which necessitates engaging prominent clan members and changing key traditional components of how xeer has long functioned.[47] As Wauters writes, people in Somalia "experience the concept of law more as rules of conduct," making sharia and xeer law enforceable not by lawmakers or police but instead by communities who have committed themselves to upholding specific values.[48] Between the two legal systems, xeer law is favored over sharia, but one does not replace the other.[49] Progressive sharia courts have enacted a practice termed suluh, which means "resolution" in Arabic and allows the courts to use sharia, xeer, and governmental laws together to make decisions on cases.[50] In an instance where sharia and xeer are both referenced, the law of sharia simply comes to be adopted within xeer, alleviating tension between the two systems.[51]

According to Leite, a continued reliance on traditional justice systems that are passed down orally results from a lack of trust in the effectiveness of secular, governmental justice systems.[52] This lack of

40   Ibid.
41   Ibid.
42   Ibid.
43   Ibid.
44   Wauters, A. (2012-2013). *Research into a Harmonised Legal System for Somalia and Analysis of its Different Judicial Systems* (Unpublished doctoral dissertation). Universiteit Gent. Retrieved July 5, 2018, from https://lib.ugent.be/fulltxt/RUG01/002/060/667/RUG01-002060667_2013_0001_AC.pdf
45   Ibid pp. 48.
46   Leite.
47   Ibid.
48   Wauters pp. 48.
49   Ibid pp. 48.
50   Ibid pp. 59.
51   Leite.
52   Ibid.

trust brings to question what cohesion there is within Somali justice systems, and also illuminates why many non-profit and humanitarian agencies in the region have focused on legal reform. The United Nations Development Programme (UNDP) has especially taken interest in "emphasizing confidence building between society and the state" by working to make court systems across Somalia more accountable.[53] The ultimate goal of their initiative is to strengthen the rule of law in Somalia by making legal services more inclusive and effective.[54] With the first court management system established only in 2016, these initiatives are still very new and under progress, so it is unclear what tangible change the region has seen or will continue to see.

Findings and Recommendations

Forming Personal Human Rights Commitments

While governmental attempts to ratify human rights commitments using sharia have largely failed, it is perhaps still possible to encourage

> **"THEREFORE, INTERROGATING THE CONTEXTUAL CONDITIONS THAT INFORM ONE'S UNDERSTANDING OF HUMAN RIGHTS IS A MORE USEFUL LINE OF INQUIRY THAN ARGUING WHETHER OR NOT HUMAN RIGHTS AND ISLAM ARE COMPATIBLE."**

students to use religion to form personal commitments to upholding human rights. There are some academics who argue that the project of finding compatibility between Islam and human rights, as the UIDHR attempted to do, is unnecessary and perhaps even futile. Islamic scholar and professor Abdullahi Ahmed An-Na'im believes that Islam is useful to the discussion of human rights insofar as it provides some people with a foundational core for their beliefs in human rights. Therefore, religion is not significant in how it informs the laws themselves, but instead helps people to understand why they support said laws, whether this commitment is religiously or secularly grounded.[55] An-Na'im writes,

---

53   *2016 UNDP Annual Report Rule of Law and Human Rights* (Rep.). (2017, November 1). Retrieved July 6, 2018, from United Nations Development Programme website: http://www.so.undp.org/content/somalia/en/home/library/crisis_prevention_and_recovery/rule-of-law-and-human-rights.html
54   Ibid pp. 26.
55   An-Na'im, A. A. (2013). An Inclusive Approach to the Mediation of Competing Human Rights Claims. *Constellations,20*(1), 7-17. Retrieved July 4, 2018, from https://drive.google.com/file/d/0B_xWbXTA_LnlWFBmNzNLM0lmRTg/view.

"I do not see the possibility or need for any single foundation of human rights for all human beings," further arguing that allowing people the ability to decide for themselves why they support human rights is integral to the concept itself.[56]

An-Na'im's work helps dispel the notion that discussing Islam and how it pertains to human rights, as this essay has done, is necessarily a discussion of compatibility. An-Na'im states, "the foundation of human rights we accept are specific to who we are, in our own context."[57] Therefore, interrogating the contextual conditions that inform one's understanding of human rights is a more useful line of inquiry than arguing whether or not human rights and Islam are compatible. Many Muslims practice Islam as a way of life and a code of conduct, with religion intimately influencing their day-to-day thoughts and actions. Because of how deeply infused the religion is in practice and culture, it is not unrealistic to imagine that it would also influence believers' reception to and perception of human rights. Though Islamic teachings are highly influential, it is important to note that Islam specifically may not be foundational to every Muslim's commitment to human rights. It is on the developers of human rights curricula to understand and respect the right of an individual to form their own commitments to rights in a way that is consistent with their lived experiences. Furthermore, it is the responsibility of those working in human rights related fields to acknowledge when and why human rights have failed. A sociocultural approach to understanding Islam and human rights shows us that the rights guaranteed to Muslims by the Quran are different from rights provided by governments — that Muslims must reconcile their understanding of their intrinsic rights with their social realities.

Further, all educators should know that socialization takes place in schools, but it is especially important that curriculum developers think about what sort of behavioral norms and standards their lessons set. This reflection is particularly necessary when using religion, especially Islam, in a classroom setting. Instead of taking on the role of educating students on the teachings of sharia, teachers and curriculum developers should be encouraged to incorporate what students already know about Islam into lessons. Many students in Somalia will have had the opportunity to attend dugsi ('schoolhouse' in Somali), where students often learn how to read the Quran. Through dugsi, students are exposed to the teachings of the Quran, and sharia by extension, firsthand and without secondary interpretation. The benefit of this background is that educators and curriculum developers may play on what students already know about Islam without having to become the authority on the religion within their lesson plans. For instance, rather than framing teachings as, "The Quran says X about Y subject," the question should be rephrased to ask, "What does the Quran say about Y subject?" In this way, educators are neither assuming that a student has knowledge about Islam nor are they supplying students with an interpretation of what the Quran says on a certain topic. To truly implement the teachings of sharia as a Muslim,

---

56   Ibid pp. 7.
57   Ibid pp. 7.

students must make a personal commitment to practicing it in their daily lives. This commitment can be bolstered by providing students with a space to think on how sharia helps them to understand different topics.

It is significant to note also that many students in Somali schools have either suffered human rights violations or know of them as a result of civil war, clan conflict, famine, and government instability in the country. It is one thing to teach that human rights exist; it is quite another challenge to encourage students to believe that they are entitled to rights when they have had experiences that reflect otherwise. It is therefore important to keep an eye on the "context" referred to by An-Na'im, and recognize that while some students may find it compelling to use their religious background to supplement their understanding and commitment to human rights, other students may not. The language of lessons focused on human rights should reflect the central idea that though rights themselves may remain static when codified in law, commitment to supporting these rights is dynamic. Students should be encouraged to think about what rights do for them and have done for them. Similarly, students should think on when rights have failed them or when a right they have felt entitled to failed to materialize. Both these lines of inquiry make the discussion of human rights feel less abstract by tailoring it to students' backgrounds.

A discussion on human rights necessarily requires a conversation on enforcement, as rights have very little effect if they are not upheld. Rights provided through the Quran and hadith are universal in the sense that practicing Muslims need only to turn to the Holy Book and its teachings to know what rights they are entitled to in this world. The difficulty comes in matching these universal religious rights with universal human rights. Human rights scholars such as An-Na'im argue that the concept of "universal" rights did not emerge until after World War II, when the development of the United Nations created a body to enforce rights that transcended the nation-state.[58] But, An-Na'im notes, even with the creation of the United Nations, there was never a movement to equate human rights with the rights of citizens, but rather to establish a "minimum standard of universal rights for all human beings everywhere."[59] The rights of citizens are more comprehensive than the rights of non-citizens: the state has the power to enforce and enact additional rights that are exclusionary of non-citizens. For example, a universal right may be freedom from torture, whereas a citizen may have an additional right to voting and holding public office.[60] Universal rights would be protected by a non-state specific body, such as the United Nations, while citizen's rights would be protected by a nation-state.

The question of who enforces rights is even more complex in Somalia, for the legal system currently in place is fragmented, with sharia law, xeer law, and state law all acting simultaneously. An-Na'im argues that a secular state is necessary to most effectively mediate competing claims to rights (specifically referring to the freedom of speech and

---

58   An-Na'im (2013) pp. 8.
59   An-Naim, A. A. (2012). *Muslims and Global Justice*. Pennsylvania: University of Pennsylvania Press.
60   Ibid pp. 9.

"STUDENTS SHOULD BE EN-COURAGED TO THINK ABOUT THEM-SELVES AS ACTIVE PAR-TICIPANTS IN THE SHAPING THEIR COM-MUNITY'S CULTURE AND CLI-MATE."

religion).[61] He defines a secular state as "one that is neutral regarding all religions without being hostile or indifferent to any religion."[62] In his view, a secular state is necessary because the key to mediating competing rights claims is through what he terms "civic reason," a process through which citizens can debate and discuss their reasonings for supporting or not supporting specific rights.[63] This process would not be possible if a state were not neutral regarding all religions.[64]

An-Na'im is not the first to advocate for a civic approach to human rights. Cesari notes that many Islamic scholars and reformists have similarly argued that human rights must be fortified at a local level. For example, Egypt's grand mufti from 1899 to 1905, Muhammed Abduh, believed that rights and social welfare had to be supported by the ummah, which specifically refers to a community of Muslims.[65] He argued that "civil power in Islam should rest on the ummah, the only source of legitimacy for a ruler."[66] Here, he was speaking directly to Islamic nation-states which rely on a form of political Islam to reify their control over the people. Both Abduh and An-Na'im emphasize the community as an empowering force for rights, with El Fadl stating that though governments are necessary to implement human rights, it is "at the sociocultural level that individual commitments turn into a collective sense of entitled, denial, or outrage."[67] Though many scholars agree that a functioning government is necessary for the implementation of human rights, the success of these rights draws on the beneficiaries of them, who are responsible for upholding and enforcing rights and protesting when they are violated.

When teaching human rights in conflict settings, students must be encouraged to make more personal commitments to human rights and school curriculum must be developed in such a way that encourages this type of thinking. Further, students should be encouraged to think about themselves as active participants in the shaping their community's culture and climate, to have conversations about how their personal commitments to human rights can benefit a community at large. Several activities included in the Human Rights & Conflict Resolution curriculum utilize An-Na-im's model for "civic reason": for example, students are asked to complete needs assessments of what their local communities can do to better enforce human rights and some lesson plans encourage students to debate rights that they consider to be essential and to brainstorm their own lists of human rights. Based on recommendations from this paper, the Yale team is currently working to create more commitment-based activities to be used in Somali classrooms. The benefit of doing activities such as these is that they not only make the concept of rights more accessible to students, but also encourage students to think about their own participation in human rights debates.

---

61   An-Na'im (2013) pp. 9.
62   Ibid pp. 8.
63   Ibid pp. 8.
64   Ibid pp. 8.
65   Cesari pp. 28.
66   Ibid pp. 28.
67   El Fadl (2017).

Conclusion

Developing a human rights curriculum that is effective and accessible to students in conflict settings is a challenging task that requires nuanced thinking on legal and social realities abroad. The tools to confront these challenges are available, but require careful collaboration and interactions between people of vastly different backgrounds and beliefs. The work and research conducted by the Yale team, in collaboration with representatives of Hope Village, the Dr. Hawa Abdi Foundation, and now Mogadishu University, speak to the possibilities of such collaboration that considers a core belief of anthropology – that by learning about the cultures and livelihoods of othersone can best connect with a people and engage with them in terms that are mutually understood. As the anthropologist Clifford Geertz famously puts it: "It may be in the cultural particularities of people — in their oddities — that some of the most instructive revelations of what it means to be human are found."[68] It is only by continuing to interrogate the particularities of Somalia, and using the resulting revelations to advance educational initiatives, that it may be possible to locate the human in human rights and to teach others how to do the same.

---

68   Geertz, C. (1973). *The Interpretation of Cultures*. Basic Books.

About the Author:

Noora Reffat is a senior at Yale University where she is completing course-work in anthropology and pre-medical studies. After graduation, she will be earning her Masters in Public Health (MPH) at the Yale School of Public Health. In the future, she hopes to work on developing disease prevention programs for refugee and displaced populations abroad.

Works Cited

2016 UNDP Annual Report Rule of Law and Human Rights (Rep.). (2017, November 1). Retrieved July 6, 2018, from United Nations Development Programme website: http://www.so.undp.org/content/somalia/en/home/library/crisis_prevention_and_recovery/rule-of-law-and-human-rights.html

Abou El Fadl, K. (2005, July 1). A Distinctly Islamic View of Human Rights: Does it Exist and is it Compatible with the Universal Declaration of Human Rights? Retrieved July 14, 2018, from https://www.searchforbeauty.org/2005/07/01/

Abou El Fadl, K. (2017). Qur anic Ethics and Islamic Law. Journal of Islamic Ethics,1(1-2), 7-28. doi:10.1163/24685542-12340002

Al-Tahtawi, R. (1839). Takhlis al-Ibriz fi Tafseel Bariz (A Paris Profile).

An-Na'im, A. A. (2013). An Inclusive Approach to the Mediation of Competing Human Rights Claims. Constellations,20(1), 7-17. Retrieved July 4, 2018, from https://drive.google.com/file/d/0B_xWbXTA_LnlWFBmNzN-LM0lmRTg/view.

An-Naim, A. A. (2012). Muslims and Global Justice. Pennsylvania: University of Pennsylvania Press.

Britannica, T. E. (2018, March 29). Mufti. Retrieved July 17, 2018, from https://www.britannica.com/topic/mufti

Cesari, J. (2018). What is Political Islam?Boulder, CO: Lynne Rienner.

Cook, M., Haider, N., Rabb, I., & Sayeed, A. (2013). Law and Tradition in Classical Islamic Thought: Studies in Honor of Professor Hossein Modarressi. Palgrave Macmillan.

Dawn, C. Ernest. "From Ottomanism to Arabism: The Origin of An Ideology," in Albert Hourani et al. (eds.). The Modern Middle East. (I.B.Tauris, 2004), pp. 378.

Geertz, C. (1973). The Interpretation of Cultures. Basic Books.

Islamic Humanitarianism? (Rep.). (2015, February). Retrieved July 7, 2018, from Humanitarian Policy Group website: https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/9457.pdf

Leite, N. (2017, October 12). Reinvigoration of Somali Traditional Justice through Inclusive Conflict Resolution Approaches. Retrieved July 5, 2018, from https://reliefweb.int/report/somalia/reinvigoration-somali-traditional-justice-through-inclusive-conflict-resolution

MacCallum, S. H. (2007, September 12). The Rule of Law Without the State. Retrieved July 5, 2018, from https://mises.org/library/rule-law-without-state

Mayer, A. E. (2013). Islam and Human Rights: Tradition and Politics. Boulder, CO: Westview Press.

Wauters, A. (2012-2013). Research into a Harmonised Legal System for Somalia and Analysis of its

Different Judicial Systems (Unpublished doctoral dissertation). Universiteit Gent. Retrieved July 5, 2018, from https://lib.ugent.be/fulltxt/RUG01/002/060/667/RUG01-002060667_2013_0001_AC.pdf

Reverse Cap-and-Trade for Refugees:

A Proposal to Ameliorate the Refugee Crisis in the European Union through a System of Quotas and Markets

From 2014 to 2017, over 1.8 million refugees were accepted by member states of the European Union.

Introduction

From 2014 to 2017, over 1.8 million refugees were accepted by member states of the European Union.[1] In 2015 alone, over a million refugees sought asylum and were taken in by the EU.[2] In 2017, out of the over 702 thousand refugees applying for asylum in the EU,[3] only 437 thousand were accepted,[4] but in 2018 that number was estimated to be only around a quarter of a million.[5] This change does not represent a declining need to take in refugees, but rather illustrates the unwillingness of various EU

---

1   Jon Henley, "What Is the Current State of the Migration Crisis in Europe?" The Guardian, November 21, 2018, accessed December 08, 2018, https://www.theguardian.com/world/2018/jun/15/what-current-scale-migration-crisis-europe-future-outlook.

2   Henley, "What Is the Current State of the Migration Crisis in Europe?"

3   Frontex. *Applications for asylum in the European Union (EU) from 2009 to 2017 (in 1,000 people)**, accessed December 12, 2018, https://www.statista.com/statistics/454836/number-of-asylum-applications-in-the-eu/

4   Eurostat. *Number of accepted first instance asylum applicants in Europe in 2017, by country*, accessed December 12, 2018, https://www.statista.com/statistics/459815/accepted-asylum-applicants-europe-by-country/.

5   Henley, "What Is the Current State of the Migration Crisis in Europe?"

states to do so. The United Nations Human Rights Campaign recognizes 21 million people around the world as refugees, including "3.2 million or so refugees awaiting decisions for asylum." This situation is the result of the lack of nations willing to take in refugees, even when they are wealthy and have substantial infrastructure to handle an influx of refugees.[6] In an effort to increase the amount of refugees taken in by nations and to reduce the number of stateless people, the European Union should institute a reverse cap-and-trade-style system to allocate refugees among its member nations. This would ultimately ensure the number of refugees accepted by the European Union does not decrease over time and would allow for refugees to be distributed based on the economic and social ability of a country to accommodate refugees.

The Cap-and-Trade Policy

Currently, cap-and-trade policies exist for reducing carbon emissions. These policies give carbon-emitting businesses an allocated amount of emissions that can be produced in a given time period, and if a business produces more emissions than their allocation, they are fined (usually in the form of increase in taxes). If the business is emitting less than their allocation, they can auction off their remaining emissions to another business.[7] A similar type of system should be used for refugee quota allocation; this system allows for a free market system to exist and satisfy the preferences of individual nations, while also placing value on a principled goal of helping displaced people. In this quota allocation policy, "refugees" and "asylum seekers" will be used interchangeably, since the vast majority of asylum seekers entering Europe today are refugees, and most available data does not specify when these populations differentiate. Most nations prioritize refugee asylum applications over those of other asylum applicants,[8] but the quota system prescribed by reverse cap-and-trade should ultimately apply to all asylum applicants. Individual nations will have complete freedom to choose which type of asylum applicants they accept to fill their quotas, but refugees comprise up the assumed majority of these applicants.

The European Union should require member states accept at least 0.1% of its population worth of refugees each year (based on estimates of the country's population from the previous year). If a country does not wish to take in this number of refugees, it can pay other nations to accept its refugee allotments in a marketplace-style setting. Unlike emissions-based cap-and-trade systems, in this plan a country pays another to take a portion of its refugee allocation. A country will be able to set the amount it is willing to give another country per assigned refugee, and other countries can choose to accept the offer or reject it in which case the monetary offering can be raised until there is a willing recipient. If no country is

6   Kavitha Surana, "Why Do Some Countries Get Away With Taking Fewer Refugees?" Foreign Policy, September 12, 2017, accessed December 08, 2018, https://foreignpolicy.com/2017/09/12/why-do-some-countries-get-away-with-taking-fewer-refugees-united-states-china/.

7   Robert N. Stavins, "A Meaningful U.S. Cap-and-Trade System to Address Climate Change," Harvard Environmental Law Review 32, no. 2 (2008): 293-372

8   Phillip Connor, "Europeans Support Taking in Refugees – but Not EU's Handling of Issue," Pew Research Center, September 19, 2018, accessed December 09, 2018, http://www.pewresearch.org/fact-tank/2018/09/19/a-majority-of-europeans-favor-taking-in-refugees-but-most-disapprove-of-eus-handling-of-the-issue/.

willing to accept another country's allocated refugees, the country that is originally assigned the refugee will be required to accept its quota's worth of refugees. A country that does not comply with this system will be penalized with sanctions and fines imposed by the European Union. These will be deemed significant enough to deter nations from not abiding by the reverse cap-and-trade policy, although this paper will not address the exact details of these penalties.

For example, Germany has a population of 80,457,737 people as of July 2018,[9] so under this system Germany would be required to take in 80,458 refugees in 2019. If Germany were only willing to take in 50,000 refugees in 2019, then it would be able to offer their remaining 30,458 refugees at a hypothetical compensation of €10,000 per refugee (estimates of the predicted prices will be addressed later). Another country, e.g. France, could then accept 25,000 of these refugees in addition to its own quota of 67,364 refugees,[10] and receive €250,000,000 from Germany. France would now be agreeing to take in a total of 92,364 refugees, and Germany's total quota would be reduced to 55,458. If no other country is willing to accept Germany's refugees, Germany would be required to take in the remaining 5,458 refugees (in addition to the 50,000 Germany already decided to take in) or receive significant sanctions and fines from the European Union. With the 28 current countries of the European Union having a total population of 517,111,329,[11] this system would make Europe the home to approximately half a million new asylum applicants each year.

There is no certainty that a policy such as this one would pass in the European Parliament. The European Parliament requires a simple majority, 376 votes, out of its 751 total seats to pass a piece of legislation.[12] While it is impossible to be certain of what each Member of European Parliament's (MEP) vote will be, it is possible to determine national popular support for absorbing more refugees through analysis of polling data in a given country. Proportions of the nation supporting increased refugee absorption should be used to roughly determine what percentage of a country's MEPs will vote in favor of pro-refugee absorption policies, such as the cap-and-trade system discussed here. Doing so, however, relies on the assumption that MEPs vote in-line with the views of the people they are elected to represent, which may not be accurate; nonetheless, analyzing popular voting data provides the best method of determining likely voting outcomes.

When asked in a Spring 2018 Pew Research Survey whether they would support or oppose taking in refugees, Spanish citizens responded "support" with the highest rate in the EU at 86%.[13] Assuming MEPs mirror the general population, 46 of Spain's 54 MEPs should support pro-refugee absorption policies, such as the proposed cap-and-trade system.[14] Similarly, with 83% support for refugee absorption at Dutch

9   CIA, *The World Factbook*. Washington, DC: Central Intelligence Agency. Continually updated, accessed December 08,2018. https://www.cia.gov/library/publications/the-world-factbook/
10   CIA, *The World Factbook*
11   CIA, *The World Factbook*
12   Simon Hix and Bjørn Høyland, *The Political System of the European Union*, 3rd ed. (Basingstoke, Hampshire: Palgrave Macmillan, 2011), 54-61.
13   Phillip Connor, "Europeans Support Taking in Refugees – but Not EU's Handling of Issue."
14   Europa, "Members of the European Parliament," European Parliament, 2014, accessed

popular polls,[15] 22 of the 26 MEPs for the Netherlands should support this policy.[16] Following this logic, there appears to be majority support in the European Parliament, with approximately 77% of people across the 28 member countries and thus 77% of MEPs should–in theory–support of taking in more refugees.[17] However, when factoring in the notion that individuals may support particular refugee policies at the national level, but may not support policies that are imposed by the European Union, these predictions become significantly more difficult to approximate. A 2017 Pew Research Survey found that in Spain and The Netherlands, only 34% and 24% of respective citizens supported the EU controlling refugee policies in their nation.[18] In fact, among the 9 EU member nations surveyed in this study, the median level of support for EU control of refugee policy–rather than national control–was 23%.[19] With the cap-and-trade refugee allocation system, quotas and penalties are imposed by the EU, but individual nations are still given some degree of control over their allocations in a market-place setting. This nuance makes it difficult to predict support in the European Parliament.

"IN FACT, AMONG THE 9 EU MEMBER NATIONS SURVEYED IN THIS STUDY, THE MEDIAN LEVEL OF SUPPORT FOR EU CONTROL OF REFUGEE POLICY—RATHER THAN NATIONAL CONTROL—WAS 23%."

For the purpose of analyzing the effects of such a policy, and thus potentially changing how individual citizens may feel about using a cap-and trade refugee system, this paper will assume that such a policy is able to pass in the European Parliament. All EU member nations will be assumed to abide by the system without any drastic backlash or scenarios like Brexit occurring. This paper will also assume there will be limited movement of refugees within the Schengen Area, since refugees are not legally subject to the same rights of free movement as EU citizens or people travelling with visas.[20] Currently, the country in which a refugee first arrives is legally responsible for handling that refugee's asylum claim.[21] In the context of the reverse cap-and-trade system, this

December 09, 2018, http://www.europarl.europa.eu/meps/en/home.
      MEPs per country are based upon the 2014 election assignments. These are not indicative of the changes that will be incurred during the 2019 European Parliament Elections.
    15   Connor, "Europeans Support Taking in Refugees – but Not EU's Handling of Issue"
    16   Europa, "Members of the European Parliament"
    17   Connor, "Europeans Support Taking in Refugees – but Not EU's Handling of Issue"
    18   Bruce Stokes, Richard Wike, and Dorothy Manevich, "Most Europeans Think Brexit Bad for EU and UK," Pew Research Center's Global Attitudes Project, June 15, 2017, accessed December 09, 2018, http://www.pewglobal.org/2017/06/15/most-europeans-judge-brexit-as-bad-for-eu-and-uk/.
    19   Stokes, Wike, Manevich, "Most Europeans Think Brexit Bad for EU and UK"
    20   James McAuley and Luisa Beck, "How Free Movement, a Founding Principle of the E.U., Became Less Free," The Washington Post, July 18, 2018, accessed December 09, 2018, https://www.washingtonpost.com/world/europe/how-free-movement-a-founding-principle-of-the-eu-became-less-free/2018/07/17/8e140c0c-7f04-11e8-a63f-7b5d2aba7ac5_story.html?utm_term=.143c8ef8a778.
    21   "World Report 2018: Rights Trends in European Union," Human Rights Watch, January 18, 2018, accessed December 09, 2018, https://www.hrw.org/world-report/2018/country-

regulation will still apply until a country has satisfied its refugee allotment. However, once a given country has satisfied its allotment of refugees–either through absorption or paying another country to take its remaining allocated refugees–the responsibility for refugees who enter that country will be transferred to a country that has not yet met its own quota. For example, Greece has a population of 10,761,523,[22] so its refugee quota would be 10,762. In 2018 alone, Greece has seen 29,764 migrants enter its sea borders alone,[23] meaning once the first 10,762 refugees enter and claim asylum in Greece, the remaining refugees will be reassigned and transferred to another country that has not yet fulfilled its quota, unless Greece chooses to take a portion of another country's assigned refugees and increases its own quota. The quota of each EU member nations' refugee intake under the cap-and-trade policy as well as each country's current refugee intake are outlined in the following table (Figure 1). For the purpose of this analysis, the United Kingdom will not be considered in this system due to its current efforts to leave the European Union.[24]

EU Member Nation	Asylum Applicants Accepted in 2017[1]	2019 Refugee Allocation under Cap-and-Trade[2]	Net Change in Refugees under Cap-and-Trade
Austria	25,200	8,793	-16,407
Belgium	12,585	11,571	-1,014
Bulgaria	1,695	7,057	5,362
Croatia	100	4,270	4,170
Cyprus	1,254	1,237	-17
Czech Republic	145	10,686	10,541
Denmark	2,365	5,810	3,445
Estonia	95	1,244	1,149
Finland	3,430	5,537	2,107
France	32,565	67,364	34,799
Germany	261,620	80,457	-181,163
Greece	10,455	10,762	307
Hungary	1,290	9,826	8,536
Ireland	760	5,068	4,308
Italy	31,795	62,247	30,452
Latvia	135	1,924	1,789
Lithuania	285	2,793	2,508
Luxembourg	1,125	606	-519
Malta	760	449	-311

chapters/european-union#.

22   CIA, *The World Factbook*

23   "Mediterranean Situation," The Mediterranean Refugees/Migrants Data Portal, December 7, 2018, accessed December 09, 2018, https://data2.unhcr.org/en/situations/mediterranean.

24   At the time of writing and completing this paper, no deal had yet been reached regarding the United Kingdom's relationship with the European Union following the "Brexit" referendum. This paper will assume the United Kingdom will no longer be a member of the European Union in 2019 and onwards.

"

THUS...THIS SYSTEM STILL POSES A SIGNIFICANTLY MORE FLEXIBLE OPTION THAN RIGID QUOTA SYSTEMS.

Netherlands	7,810	17,151	9,341
Poland	510	38,421	37,911
Portugal	500	10,355	9,855
Romania	1,245	21,457	20,212
Slovakia	60	5,445	5,385
Slovenia	150	2,102	1,952
Spain	4,090	49,331	45,241
Sweden	26,775	10,041	-16,734

Comparison to Alternative Quota Systems

This system of purely population-based quotas aims to circumvent issues inherent to inflexible quota systems. The 2015 quota system enacted by the EU to redistribute 120,000 refugees faced immense backlash, specifically from Central European states.[25] While many states who largely oppose to EU-level refugee quotas will likely still disapprove of a reverse cap-and-trade refugee allocation policy, the reverse cap-and-trade policy allows individual states to adjust their quotas in a marketplace setting. Thus, while this system will require nations incur additional costs (either the cost of taking in refugees or of paying another country to take its refugees), this system still poses a significantly more flexible option than rigid quota systems.

A reverse cap-and-trade system with a quota indexed to population size is preferable to a quota indexed on economic factors for several reasons. First, most infrastructure programs are designed to only handle a given nation's population size and not significantly more people, regardless of that country's wealth. For example, Italy and Malta have relatively similar GDPs per capita;[26] however, Italy has approximately 130 times the population of Malta,[27] meaning an influx of several thousand refugees would be easily accommodated by Italy but would likely overwhelm and collapse Malta's infrastructure due to a population shock. Second, wealth inequality would likely mean the GDP of a country per capita is significantly higher than a figure reflecting the living conditions of the majority of people within that country, meaning that providing more refugees to wealthier countries would not guarantee those refugees a decent quality of living. Third, using economic data from previous years can be thoroughly inconsistent with a country's current economic conditions and thus not adequately reflect a country's ability to accept refugees. Indexing the quota to population provides more stability in the yearly quota because in a short period of time, it is far less likely for population than for economic conditions to vary. The "marketplace" environment that the reverse cap-and-trade system creates also means that countries can adapt their refugee intake to their economic conditions in comparison to the economic conditions of other countries. As a result, this system does still reflect the economic ability of countries to take in refugees,

25   Ian Traynor and Patrick Kingsley, "EU Governments Push through Divisive Deal to Share 120,000 Refugees," The Guardian, September 22, 2015, accessed December 12, 2018, https://www.theguardian.com/world/2015/sep/22/eu-governments-divisive-quotas-deal-share-120000-refugees.
26   The World Bank. "GDP per capita." The World Bank Data, continually updated, accessed December 12, 2018, https://data.worldbank.org/indicator/NY.GDP.PCAP.CD.
27   CIA, The World Factbook

> **"INDEXING THE QUOTA TO POPULATION PROVIDES MORE STABILITY IN THE YEARLY QUOTA BECAUSE IN A SHORT PERIOD OF TIME, IT IS FAR LESS LIKELY FOR POPULATION THAN FOR ECONOMIC CONDITIONS TO VARY."**

but on a more stable and comparative basis.

Creating a "Marketplace of Refugees"

To understand how the reverse cap-and-trade "marketplace" of refugees will operate, it is crucial to understand the current intake and distribution of refugees across Europe; today, Germany accepts the significant majority of refugees. In 2017, Germany accepted 261,620 applications for asylum, which is 61% of the total amount of refugees legally accepted by EU member nations.[28] This is in addition to the approximately 890,000 and 280,000 refugees Germany accepted in 2015 and 2016 respectively.[29] While Germany has shown a decline in the number of refugees it is willing to accept over the years, it still remains the leader in refugee intake by a significant margin. Along with Germany's powerful economy which can handle a large population increase, Angela Merkel's attempts to maintain Germany's image as the leader of the EU is likely among the chief causes for Germany's willingness to absorb refugees.

While there is an increasingly negative public attitude towards refugees and Islamophobia is on the rise in Germany–likely due to an increase in terror attacks falsely attributed to refugees and Muslim populations[30]– Germany has not experienced any significant economic or social harm from taking in refugees. Anti-refugee and immigration groups argue that accepting immigrants and refugees leads to massive unemployment and significant increases in violent crime. Analysis of data from 2014 to 2017 prove that both of these claims are inaccurate. There was no indication that refugees displaced native workers, and in fact, the only groups who faced increased odds of unemployment were the refugees themselves.[31] While it would be preferable for these refugees to have jobs than to be unemployed, it is almost certain that refugees would prefer to be unemployed and living in Europe than remain in the country from which they were originally displaced. Refugees and immigrant populations have also been shown to have positive impacts on wages among native populations. A 13 year-long study that accounted for variables such as inflation, which performed a regression against general wage increases found that having a large influx in population of relatively low-skilled workers (e.g. the vast majority of the refugee populations entering Europe) leads to an approximately 2% increase in wages among low-skilled native workers.[32] The study also found there is no relevant change in higher-skilled positions as for the most part; refugee populations do not have language proficiency or an education considered relevant in their country of resettlement, so there is little competition with high-skilled native populations. Regarding crime,

---

28   Eurostat. *Number of accepted first instance asylum applicants in Europe in 2017, by country*

29   Stefan Wagstyl, "German Refugee Intake Drops 70% in 2016," Financial Times, January 11, 2017, accessed December 12, 2018, https://www.ft.com/content/e7d56a47-0644-36fb-926b-b16aedc24300.

30   Wagstyl, "German Refugee Intake Drops 70% in 2016."

31   Markus Gehrsitz and Martin Ungerer, "Jobs, Crime, and Votes: A Short-Run Evaluation of the Refugee Crisis in Germany," January 2017, accessed December 12, 2018, IZA Discussion Paper No. 10494. Available at SSRN: https://ssrn.com/abstract=2903116

32   Mette Foged and Giovanni Perri, "How Immigrants and Job Mobility Help Low-skilled Workers," Vox CEPR Policy Portal, April 19, 2015, accessed December 12, 2018, https://voxeu.org/article/how-immigrants-and-job-mobility-help-low-skilled-workers.

a study specifically analyzing the increase in refugees in Germany found there was no significant increase in crime since Germany started accepting large quantities of refugees in 2014, and the only statistically noticeable increases in crime were found to be crimes involving drug usage and fare-

"COUNTRIES LIKE GERMANY REASSERT THEMSELVES AS MORAL AUTHORITY FIGURES, INCREASING THEIR SOFT POWER AND THEIR ABILITY TO FORM ALLIANCES AND IMPACT DECISIONS IN INTERGOVERNMENTAL ORGANIZATIONS."

dodging.[33] These are fundamentally victimless crimes and thus impose little in terms of negative externalities on native citizens.

Since the majority of German attitudes toward refugee absorption are not significantly negative, based on current numbers, it is likely that Germany will continue to accept its approximately 250,000 refugees per year. If this is the case, Germany accepting approximately 170,000 refugees above its assigned quota under the reverse cap-and-trade policy. It is also likely Germany would be willing to accept significantly more refugees under this policy due to the financial compensation that would exist if these additional refuges were offered by another country aiming to reduce its refugee intake. Accepting large quantities of refugees, especially taking in more than prescribed by a quota, is also incredible for a country's public image. When viewed as selfless and charitable actors, countries like Germany reassert themselves as moral authority figures, increasing their soft power and their ability to form alliances and impact decisions in intergovernmental organizations like the European Union, United Nations, and NATO.[34] Thus, Germany is likely to remain the largest acceptor of refugees.

Currently, France and Italy are the only other countries in the EU that accept more than 30,000 refugees a year,[35] an amount of refugees significantly behind Germany, and approximately half of what each country would be responsible for taking in under the reverse cap-and-trade policy. While France is recognized as having the third strongest economy in the EU, behind only Germany and the United Kingdom,[36]

33   Markus Gehrsitz and Martin Ungerer, "Jobs, Crime, and Votes: A Short-Run Evaluation of the Refugee Crisis in Germany."

34   Jeremy Salt, "Turkey and Syria: When "Soft Power" Turned Hard," Middle East Policy Council, , accessed December 13, 2018, https://www.mepc.org/journal/turkey-and-syria-when-soft-power-turned-hard.

35   Eurostat. *Number of accepted first instance asylum applicants in Europe in 2017, by country*

36   Eurostat, "Which Member States Have the Largest Share of EU's GDP?" Europa, May 11, 2018, accessed December 12, 2018, https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20180511-1?inheritRedirect=true.

it takes in disproportionately fewer refugees than Germany. This is largely reflective of the significant anti-immigration and anti-refugee attitudes currently present and emerging in France. Non-refugee immigrant populations, ethnic minorities, and refugees have been facing significant increases in discrimination as French nationalism has expanded, likely due to several recent terrorist attacks in France and more broadly throughout Europe.[37] French President Emmanuel Macron has expressed interest in reducing the intake of migrants,[38] likely indicating that even with the reverse cap-and-trade quota requiring France to take in over twice as many refugees as it currently accepts,[39] it is improbable France will take in more refugees. As a result, France likely would be among the countries with the largest quantities of refugees it intends to offer other nations. France's government also has the funds to be able to fairly compensate other countries for its share of refugees; thus, this system would likely not cause tremendous backlash among the French people who would likely prefer spending money than taking in more refugees. Italy has the fourth strongest economy in the European Union,[40] and like France, is currently only taking in approximately half as many refugees as it would be required to accept under the reverse cap-and-trade program.[41] This also indicates that Italy will probably be one of the nations trying to offer away the largest quantities of their allocated refugees under the reverse cap-and-trade program.

Pricing and Payments

In this paper, in order to determine the price that nations would be willing to pay others to absorb an assigned refugee, the examples of France and Italy will be used as the primary exporters and Germany will be counted as the primary importer; these countries will likely engage in large-quantity transactions and have large enough budgets to set market prices. While Spain, Poland, and Romania will also now be required to take in 20 to 40 thousand more refugees each year than they currently accept, it is assumed that these countries would be willing to accept a significant quantity before resorting to trying to export their remaining quotas. This is because there is little marginal cost to taking in an initial several thousand refugees as they do not yet pose a strain on infrastructure and government resources, and these countries currently take in incredibly few refugees. These countries also have less spending power than France and Italy,[42] meaning there would be less ability to impact market prices. France and Italy would likely be able to offer countries more money per refugee, and a nation would rationally accept a higher offer. Thus, at least

---

37   Andy J. Semotiuk, "France Struggles with Its Immigrants In The Midst Of National Security Concerns," Forbes, January 17, 2018, accessed December 12, 2018, https://www.forbes.com/sites/andyjsemotiuk/2018/01/17/france-struggles-with-its-immigrants-in-the-midst-of-national-security-concerns/#64f653295efc.

38   Gabriel Bristow, "This Immigration Law Has Exposed the Brutal Limits of Macron's Liberalism," The Guardian, February 22, 2018, accessed December 12, 2018, https://www.theguardian.com/commentisfree/2018/feb/22/immigration-macron-liberalism-migrants-refugees.

39   See Figure 1

40   Europa, "Which Member States Have the Largest Share of EU's GDP?"

41   See Figure 1

42   This is reflective of the GDPs of these nations in comparison. This is according to Eurostat's "Which Member States Have the Largest Share of EU's GDP?" released in 2018. For simplicity, spending power is calculated purely on GDP and not current national debt's or budget surpluses.

until Italy and France have run out of surplus refugees to offer to other countries, remaining nations will have little capacity to set market prices. This does not mean that they will never be able to set prices though, as there is a high chance Germany would be able to take in both Italy and France's refugees. The next highest offers, likely from Spain, Poland, and Romania who would still be willing to offer relatively high payments per assigned refugee, will then control market price.

The price a country is willing to pay for another country to take in its refugees can be calculated as similar to the amount of money a country currently spends on the refugees it does accept. According to an August 2017 report by the European Commission, France described the average cost on the government of each refugee as being €11,900.46 for the average duration of a refugee's stay in France.[43] Similar data is not available for Italy, but it can be assumed to be in a comparable price range. In determining price, Germany (or another country willing to receive additional refugees) would know that if France were to offer Germany less than €11,900 per refugee, France would be offering less than they would be paying to accept that refugee. France would thus be at a net-gain in money in comparison to if they were required to keep each refugee. Germany would then be able to renegotiate the price to make it at least equal to what France would spend on each refugee, in this case being €11,900. However, in addition to the purely economic cost of each refugee, there is also a large social and political cost associated with taking in large quantities of refugees. As previously stated, France is growing ever-more intolerant and unwelcoming towards refugees as they see refugees as being responsible for increases in crime and an overall decrease in French prosperity. Macron knows he will lose whatever remaining approval rating he has and there will be more backlash against the French government if large amounts of refugees are permitted to enter France. Knowing how desperate France is to reduce their refugee intake, Germany could ask for higher monetary compensation per refugee in a way that would prescribe to the formula:

OFFER AMOUNT = ECONOMIC COST + SOCIAL COST

While obviously the social and political costs cannot be quantified, they are likely equal to a small yet significant increase in the offer amount per refugee. Therefore, Germany would be able to demand at least €11,900 with this number likely being able to reach upwards of €15,000 per refugee if countries are in dire need of getting rid of portions of their allocation. Other nations would need to compete with this offer in order for Germany to be willing to engage in a deal with them, so the market price per refugee can be calculated as approximately €12,000 per refugee.

Assuming this market price, France would pay Germany €417,588,000 to take all the 34,799 extra refugees France would be assigned under the cap-and-trade system. This accounts for only around 0.01% of

---

43   European Commission. "EMN Ad-Hoc Query on Average cost and average length of reception for asylum seekers." European Migration Network. August 4, 2017, accessed December 12, 2018, https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1229_-_average_cost_and_average_length.pdf This is calculated from the numbers available in the report. The daily cost of having a refugee in France is €24.09 and the average stay of a refugee in France is 494 days. The total cost is found by multiplying the average cost per day by total average days.

France's GDP,[44] meaning it would likely be a cost France could afford and would be more willing to pay, in comparison to accepting an additional 34,000 refugees. Italy would be willing to offer similar amounts for their refugees. Were Germany to accept 181,163 refugees more than its quota to maintain status quo levels of intake, assuming this market price holds, Germany would be receiving an additional €2 billion per year under the cap-and-trade policy. This would ultimately give Germany the capacity to continue accepting at least an equal number of refugees as it accepts in the status quo. However, the influx of billions of Euros would likely incentivize Germany to accept significantly more refugees than it currently does as there would no longer be public pushback due to the idea that refugees are an economic strain on the country. With these additional funds, Germany could also increase the quality of welfare provided to refugees, which would likely decrease the amount of drug offenses and fare-evasion crimes that are currently observed at slightly above average levels among refugee populations. This could reduce the narrative that refugees increase crime,[45] likely leading to the decrease of stigma and discrimination against refugees, as well as to countries across the European Union slowly developing increasing willingness to absorb refugees.

> "THE GOAL OF THE SYSTEM IN THE SHORT-TERM IS NOT TO RADICALLY INCREASE THE NUMBER OF ASYLUM APPLICATIONS ACCEPTED BY COUNTRIES IN THE EUROPEAN UNION, BUT RATHER TO ENSURE THAT INTAKE OF REFUGEES DOES NOT CONTINUE TO DECREASE..."

Conclusion

Ultimately, if implemented, the refugee cap-and-trade system this paper explores would only increase the total refugee intake across the European Union by 23,205 refugees per year in comparison to the refugees taken in during 2017.[46] The goal of the system in the short-term is not to radically increase the number of asylum applications accepted by countries in the European Union, but rather to ensure that intake of refugees does not continue to decrease and the allocation of refugees across Europe is distributed based on the willingness and capacity of individual nations to accept refugees. Without quotas or incentives, the European nations have little incentive to offer asylum to refuges, and a rigid, inflexible quota system as implemented by the European Parliament in 2015 has shown to

44   The World Bank. "GDP." The World Bank Data, continually updated, accessed December 12, 2018, https://data.worldbank.org/indicator/NY.GDP.MKTP.CD.
45   Markus Gehrsitz and Martin Ungerer, "Jobs, Crime, and Votes: A Short-Run Evaluation of the Refugee Crisis in Germany."
46   See Figure 1

be ineffective. In its worst case, the cap-and-trade system maintains close to current levels of refugee intakes even if it does not increase favorability of refugees. However, the policy is likely to have significant positive signaling effects.

Operating on the platform that countries are saving money by taking in their quota of refugees or even earning money by taking in more than their quota of refugees, Europeans can increasingly see refugees as a positive contribution to their countries. By re-orienting the public's mindset in this direction, a reverse cap-and-trade policy will work to break down stigmas and discrimination currently faced by refugee populations. Once this happens, countries in Europe and around the world will perhaps find an increased willingness to welcome refugees, bettering the lives of millions of displaced persons from around the world.

About the Author:

Jordan Farenhem is currently an undergraduate sophomore in Pauli Murray College majoring in Political Science. He is specifically interested in the fields of post-conflict reconstruction and the effects of conflicts on non-combatants.

Works Cited

Bristow, Gabriel. "This Immigration Law Has Exposed the Brutal Limits of Macron's Liberalism." The Guardian. February 22, 2018. Accessed December 12, 2018. https://www.theguardian.com/commentisfree/2018/feb/22/immigration-macron-liberalism-migrants-refugees.

CIA, The World Factbook. Washington, DC: Central Intelligence Agency. Continually updated, accessed December 08,2018. https://www.cia.gov/library/publications/the-world-factbook/

Connor, Phillip. "Europeans Support Taking in Refugees – but Not EU's Handling of Issue." Pew Research Center. September 19, 2018. Accessed December 09, 2018. http://www.pewresearch.org/fact-tank/2018/09/19/a-majority-of-europeans-favor-taking-in-refugees-but-most-disapprove-of-eus-handling-of-the-issue/.

European Commission. "EMN Ad-Hoc Query on Average cost and average length of reception for asylum seekers." European Migration Network. August 4, 2017. Accessed December 12, 2018. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/2017.1229_-_average_cost_and_average_length.pdf

European Social Policy Network. "Refugees and immigrants: A challenge for Italian legislation but a solution for demographic trends?" May 2016. Accessed December 12, 2018. https://ec.europa.eu/social/BlobServlet?docId=15579&langId=en

Eurostat. Number of accepted first instance asylum applicants in Europe in 2017, by country. Accessed December 12, 2018. https://www.statista.com/statistics/459815/accepted-asylum-applicants-europe-by-country/

Foged, Mette, and Giovanni Perri. "How Immigrants and Job Mobility Help Low-skilled Workers." Vox CEPR Policy Portal. April 19, 2015. Accessed December 12, 2018. https://voxeu.org/article/how-immigrants-and-job-mobility-help-low-skilled-workers.

Frontex. Applications for asylum in the European Union (EU) from 2009 to 2017 (in 1,000 people)*. Accessed December 12, 2018. https://www.statista.com/statistics/454836/number-of-asylum-applications-in-the-eu/

Gehrsitz, Markus and Ungerer, Martin. "Jobs, Crime, and Votes: A Short-Run Evaluation of the Refugee Crisis in Germany." IZA Discussion Paper No. 10494. January 2017. Accessed December 11, 2018 https://ssrn.com/abstract=2903116

Henley, Jon. "What Is the Current State of the Migration Crisis in Europe?" The Guardian. November 21, 2018. Accessed December 08, 2018. https://www.theguardian.com/world/2018/jun/15/what-current-scale-migration-crisis-europe-future-outlook.

Hix, Simon, and Bjørn Høyland. The Political System of the European Union. 3rd ed. Basingstoke, Hampshire: Palgrave Macmillan, 2011.

McAuley, James, and Luisa Beck. "How Free Movement, a Founding Principle of the E.U., Became Less Free." The Washington Post. July 18, 2018. Accessed December 09, 2018. https://

www.washingtonpost.com/world/europe/how-free-movement-a-founding-principle-of-the-eu-became-less-free/2018/07/17/8e140c0c-7f04-11e8-a63f-7b5d2aba7ac5_story.html?utm_term=.143c8ef8a778.

"Mediterranean Situation." The Mediterranean Refugees/Migrants Data Portal. December 7, 2018. Accessed December 09, 2018. https://data2.unhcr.org/en/situations/mediterranean.

"Members of the European Parliament." European Parliament. 2014. Accessed December 09, 2018. http://www.europarl.europa.eu/meps/en/home.

Salt, Jeremy. "Turkey and Syria: When "Soft Power" Turned Hard." Middle East Policy Council. Accessed December 13, 2018. https://www.mepc.org/journal/turkey-and-syria-when-soft-power-turned-hard.

Semotiuk, Andy J. "France Struggles With Its Immigrants In The Midst Of National Security Concerns." Forbes. January 17, 2018. Accessed December 12, 2018. https://www.forbes.com/sites/andyjsemotiuk/2018/01/17/france-struggles-with-its-immigrants-in-the-midst-of-national-security-concerns/#64f653295efc.

Stavins, Robert N. "A Meaningful U.S. Cap-and-Trade System to Address Climate Change," Harvard Environmental Law Review 32, no. 2 (2008): 293-372

Stokes, Bruce, Richard Wike, and Dorothy Manevich. "Most Europeans Think Brexit Bad for EU and UK." Pew Research Center's Global Attitudes Project. June 15, 2017. Accessed December 09, 2018. http://www.pewglobal.org/2017/06/15/most-europeans-judge-brexit-as-bad-for-eu-and-uk/.

Surana, Kavitha. "Why Do Some Countries Get Away With Taking Fewer Refugees?" Foreign Policy. September 12, 2017. Accessed December 08, 2018. https://foreignpolicy.com/2017/09/12/why-do-some-countries-get-away-with-taking-fewer-refugees-united-states-china/.

The World Bank. "GDP." The World Bank Data. Continutally updated. Accessed December 12, 2018. https://data.worldbank.org/indicator/NY.GDP.MKTP.CD.

Traynor, Ian, and Patrick Kingsley. "EU Governments Push through Divisive Deal to Share 120,000 Refugees." The Guardian. September 22, 2015. Accessed December 12, 2018. https://www.theguardian.com/world/2015/sep/22/eu-governments-divisive-quotas-deal-share-120000-refugees.

Wagstyl, Stefan. "German Refugee Intake Drops 70% in 2016." Financial Times. January 11, 2017. Accessed December 12, 2018. https://www.ft.com/content/e7d56a47-0644-36fb-926b-b16aedc24300.

"Which Member States Have the Largest Share of EU's GDP?" Eurostat. May 11, 2018. Accessed December 12, 2018. https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20180511-1?inheritRedirect=true.

"World Report 2018: Rights Trends in European Union." Human Rights Watch. January 18, 2018. Accessed December 09, 2018. https://www.hrw.org/world-report/2018/country-chapters/european-union#.