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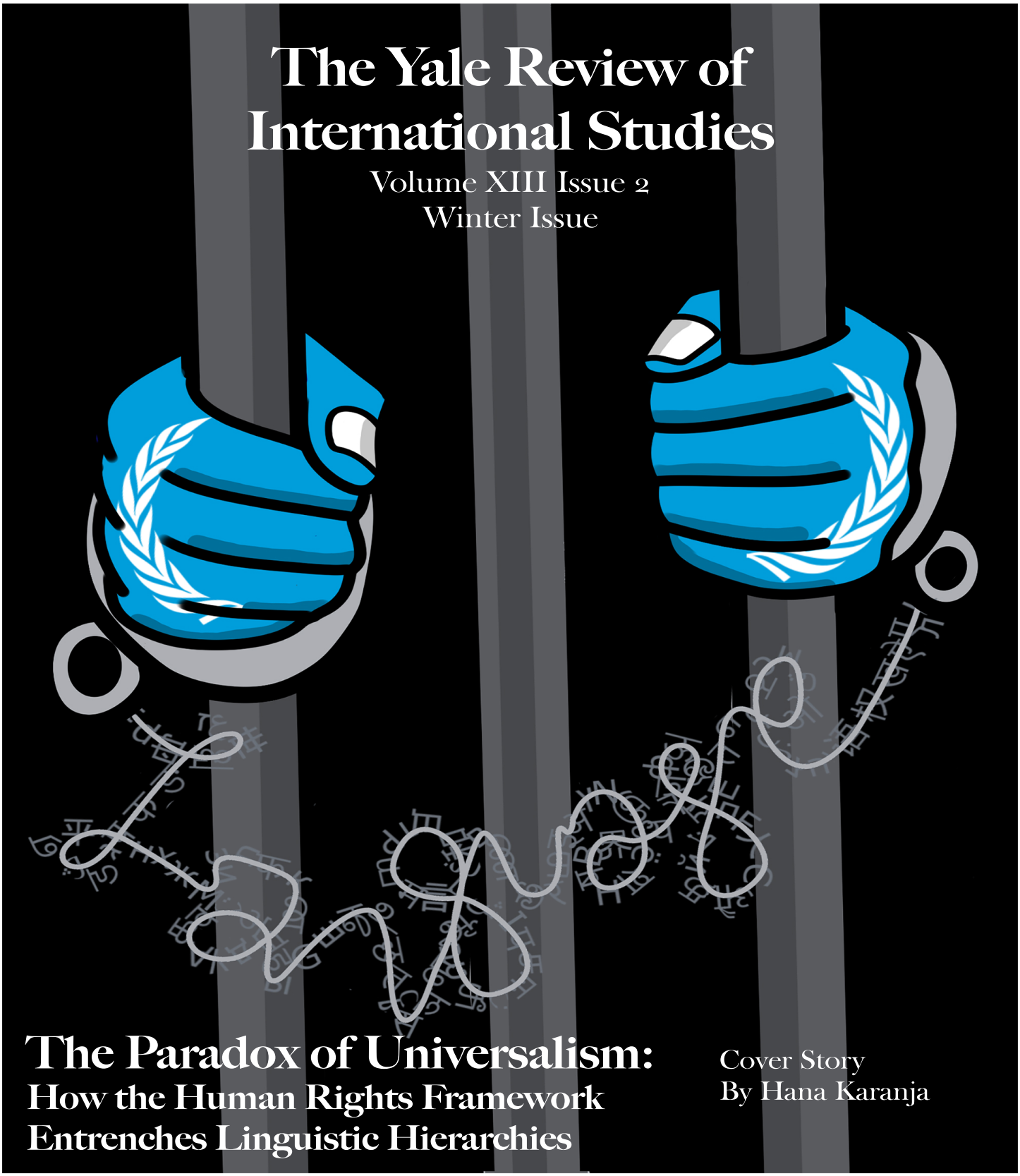

The Paradox of Universalism:
How the Human Rights Framework Entrenches Linguistic Hierarchies

Cover Story
By Hana Karanja

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Dear Reader,

We are pleased to present you with the fifth annual edition of the Winter Issue. Each year, we accept original international relations research from students at domestic universities and institutions around the world. The aim of this issue, and the Yale Review of International Studies as a publication, is to provide a global platform for the unique perspectives of students with a passion for foreign affairs.

We would like to first thank the exceptional contributing authors who serve as the foundation of our work at YRIS. Only through their continued effort, interest, and trust in YRIS to review and publish their writing are we able to maintain such a high scholarly standard every print cycle. Thank you for sharing your knowledge with us and continuing to report with careful criticism on the most pressing global issues.

We would further like to thank our unparalleled Design Team, Board, Assistant Editors, and Staff Writers. It is an immeasurable honor to work with such a dedicated team whose combined abilities in writing, editing, researching, and designing continue to surprise and delight. They lie at the heart of this publication, and it is their hard work you are about to witness. Our Board, especially, is responsible for nurturing the next generation of global scholars on campus and abroad. Their commitment determines our success.

Our 2022/23 Winter Issue focuses on the themes of global human rights institutions and its impacts at the community level. Escalating disillusionment with traditional human rights norms detached from the populations they aim to serve contributes to the creation of alternative paths toward empowerment. We hope the enclosed articles challenge readers to think about the bounds of the collective.

Sincerely,
Faisal Al Saud and Maya Albold
Editors-in-Chief

HANA KARANJA

ALLISON HASTINGS-WOTTOWA

DR. MARK NIEMAN AND YANA SADEGH

RONNIE DI IORIO

Essays

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The Paradox of Universalism

How the Human Rights Framework Entrenches Linguistic Hierarchies

Henri Grégoire was a 18th century French abolitionist for the rights of French colonial subjects.

He was also a fierce linguistic imperialist and the author of a 1794 report to the French National Convention titled "*Rapport sur la Nécessité et les Moyens d'anéantir les Patois et d'universaliser l'Usage de la Langue française,*" or "Report on the necessity and means to annihilate patois and universalize the use of the French Language." Grégoire advocated for the standardization of the French language and the elimination of patois to extend opportunities to those from francophone colonies and allow them to participate in the French political system. Granted, speaking a standard version of French would have been the quickest way for disenfranchised members of the empire to have any sort of political voice. However, this opinion was not merely practical. It was also interwoven with a profound sense of French linguistic nationalism and a belief that a pure version of the French language would culturally ameliorate those who strove to speak it perfectly.[1] Instead of looking to mold French political systems to the needs of disenfranchised patois speakers, Grégoire strove for the linguistic assimilation of those colonized by the French Empire. This passion for the "annihilation" of patois reflected Grégoire's deep-seated belief in the inevitability and legitimacy of France as a global hegemon. Grégoire's brand of linguistic nationalism illustrates how universalism

1 Keisuke Kasuya, "Discourses of Linguistic Dominance: A Historical Consideration of French Language Ideology," *International Review of Education / Internationale Zeitschrift Für Erziehungswissenschaft / Revue Internationale de l'Education* 47, no. 3/4 (2001): 239-240.

and the desire to promote the interests of the globally disenfranchised is easily interwoven with colonial, Western-supremacist ideologies.

The contemporary human rights advocate would recoil at the notion of annihilating languages as a means of enfranchisement. Yet, the linguistically exclusive international structures through which the human rights movement operates, namely, the UN and international courts, exhibit a strikingly similar dynamic, where historically colonial languages, primarily English and French, are prerequisites for participation. Given this perspective, it is not difficult to understand scathing critiques of the human rights movement that draw parallels to colonialism and accuse human rights advocates of perpetuating Western cultural hegemony. Law professor Makau Mutua poses one such argument in his book *Human Rights, a Political and Social Critique*, in which he claims, "The white human rights zealot joins the unbroken chain that connects him to the colonial administrator, the Bible-wielding missionary, and the merchant of free enterprise."[2] The centrality of colonial languages in human rights structures certainly reinforces this claim. Intellectual historian Alyssa Sepinwall notes that the legacy of Grégoire lingers in the West to this day in her contention that his belief in the linguistic assimilation of minority groups "still colors the way that Europeans think about the global south."[3] In fact, some human rights advocates could reasonably be cast as modern-day Grégoires, eager to open the door to the disenfranchised third world, but only through a primarily English and French system. This modern human rights advocate, like Grégoire, perhaps takes for granted that language is a barrier to entry into international human rights structures, and that international systems should operate in their native language. While I disagree with Mutua that the human rights movement is a mere continuation of colonialism, the linguistic exclusivity of the international human rights regime must be repudiated for it to live up to its stated values.

The defining characteristic of human rights theory is that it aspires to universality and transcendence of cultural and geographical boundaries. This is essential to the mission of human rights, which is to create global standards of living that are subject to international oversight. It is also one of the most controversial aspects of human rights, as it leads to conflicts about whether we can truly reconcile profound value disagreements between cultures. However, before we can even have conversations across cultures, there need to be multilingual systems in place to translate the work of international structures and promote accessibility for those who do not speak one of the few dominant languages in the international community. Moreover, by expanding international human rights translation systems, the human rights movement would further open itself up to insight as to whether and how international and transnational advocacy can work in previously under-consulted cultures. Limiting human rights procedures and documentation to a handful of

2 Makau Mutua, "Conclusion," *Human Rights: A Political and Cultural Critique*, Pennsylvania Studies in Human Rights (Philadelphia: University of Pennsylvania Press, 2002), 155.

3 Alyssa Goldstein Sepinwall, *The Abbe Gregoire and the French Revolution: The Making of Modern Universalism* (2021), 8.

languages without sufficient translation resources is antithetical to the very mission of human rights.

This essay will trace the colonial roots that led to the entrenchment of English and French as international languages and examine how this continues to affect the relationship between former colonies and international institutions. It will emphasize the detrimental effects of linguistic exclusion on the modern human rights movement and pose recommendations for reform towards multilingualism.

I: Introducing Colonial Histories

International bodies such as the UN reinforce the dynamics of linguistic hegemony that originated in colonial domination. Language itself has served as a powerful tool for the violation of the human rights of colonized peoples; British colonization in Africa is a prime example. Ngugi wa Thiong'o, a renowned Kenyan novelist, recounts his personal experience of this linguistic imperialism in his book *Decolonizing the Mind*. Ngugi explains that after the colonial regime took over schools in Kenya, "English became the language of [his] formal education," and that "English became more than a language — it was *the* language, and all the others had to bow before it in deference."[4] Ngugi recounts that, if caught speaking Gikuyu (his mother tongue) near the British-run school, he and his peers were subjected to "humiliating" corporal and psychological punishments. The offending student endured "three to five strokes of the cane on bare buttocks or was made to carry a metal plate around the neck with inscriptions such as 'I AM STUPID' or 'I AM A DONKEY.'" Children who had been caught speaking Gikuyu would be fined sums they could not afford and would be made to tell their teachers who else had spoken Gikuyu that day. Through this system, "children were turned into witch hunters and in the process were being taught the lucrative value of being a traitor to one's immediate community."[5] These punishments not only inflicted physical harm; they also aimed to brand into children the message that their native language was inhuman or idiotic, and that they should hate their peers who speak it, hate their community that speaks it, and ultimately, hate themselves for speaking it. Meanwhile, Ngugi describes, "the attitude to English was the exact opposite: any achievement in spoken or written English was highly rewarded; prizes, prestige, applause; the ticket to higher realms."[6] English was used to create stratification and competition among the children themselves, measuring them against each other by English ability, and rewarding the children most willing and able to adopt the colonial language. This not only elevated the status of the English language, but also divided the colonized natives, pitting them against each other and weakening any unified defiance of the British language and colonial regime. The forced teaching of English was baked into the overall colonial message that the native is a lesser being than the settler and must be civilized by cultural and social subordination to the settler.

4 Ngugi wa Thiong'o, *Decolonizing the Mind: The Politics of Language in East African Literature,* (Harare: Zimbabwe Publishing House, 1987), 11.

5 Thiong'o, *Decolonizing the Mind,* 11.

6 Thiong'o, *Decolonizing the Mind,* 12.

The British Empire is one among many examples of global powers using language as a tool for the "civilization" of natives and their incorporation into the empire. This dynamic was common among colonial powers across the globe, who forcefully inculcated their languages in their colonies, and used language as a metric by which to judge the success of their efforts to assimilate natives. This practice was perhaps most strongly exemplified by the French colonial empire, in which language was explicitly celebrated as a manifestation of French identity, superiority, and power over colonized cultures. The French language, according to researcher Fredrich Michelman, was considered by colonial leaders to be a "supreme civilizing force," and the French considered it their "sacred mission to bring its benefits to those unfortunate enough not to speak it."[7]

"THE CONTEMPORARY HUMAN RIGHTS ADVOCATE WOULD RECOIL AT THE NOTION OF ANNIHILATING LANGUAGES AS A MEANS OF ENFRANCHISEMENT. YET, THE LINGUISTICALLY EXCLUSIVE INTERNATIONAL STRUCTURES THROUGH WHICH THE HUMAN RIGHTS MOVEMENT OPERATES, NAMELY, THE UN AND INTERNATIONAL COURTS, EXHIBIT A STRIKINGLY SIMILAR DYNAMIC, WHERE HISTORICALLY COLONIAL LANGUAGES, PRIMARILY ENGLISH AND FRENCH, ARE PREREQUISITES FOR PARTICIPATION."

Through scrutinizing the global spread of languages, we gain a critical perspective on colonial power dynamics that we might otherwise not notice as native English speakers. Among speakers of colonial languages, the spread of languages is often viewed as natural and somewhat entropic, when, in fact, it is often a reflection of global violence. Japanese researcher Keisuke Kasuya emphasizes, "it is easy to overlook language oppression in colonial and imperial times, wherein lie the seeds of the present problems, and to view language dominance as a 'natural' process and/or a 'voluntary' choice." However, Kasuya emphasizes that languages do not spread themselves; rather, "it is dominant social groups that spread their languages over dominated ones in explicit and implicit ways."[8] Having begun to explore these histories of linguistic hegemony, perhaps we can begin to understand why so many repudiations of colonialism in native communities have emphasized language. Ngugi wa Thiong'o himself, who began his career writing in English,

7 Fredric Michelman, "French and British Colonial Language Policies: A Comparative View of Their Impact on African Literature," *Research in African Literatures* 26, no. 4 (1995): 217.

8 Kasuya, "Discourses of Linguistic Dominance," 239.

the "ticket to higher realms," now writes exclusively in Gikuyu. [9]

His later works are accessible to English speakers only through translation. In a famous episode in 1915, Edmond Laforest, a prominent Haitian poet, "stood upon a bridge, calmly tied a Larousse dictionary around his neck, then proceeded to leap to his death by drowning."[10] The act signified how the imposition of the French language on his writing had killed his true voice. The Soweto uprising, one of the most bitter clashes between colonizer and colonized in apartheid South Africa, consisted of black schoolchildren protesting the introduction of Afrikaans as the medium of instruction in local black schools. Around 20,000 students are estimated to have participated, and the protest was met with brutal police violence. Police were officially reported to have killed 176 students but estimates of the true number of killings are "much higher."[11] This uprising resulted in the now-famous photo of eleven-year-old Zolile Hector Pieterson, bloodied and dying, being carried away by a sobbing classmate with his young sister running by their side. The child, who had been shot by the police, was pronounced dead upon arrival at a clinic. This sacrifice is a sobering reminder of the integral role language plays as a manifestation of the culture and spirit of a people. As Ngugi put it in a 2019 interview, "values are the basis of a people's identity, their sense of particularity as members of the human race. All this is carried by language…The bullet [is] the means of the physical subjugation. Language [is] the means of the spiritual subjugation."[12]

II: The Linguistic Legacies of Colonialism

Given these stakes, we should look to global language dynamics today with a wary, critical eye. In former colonies, colonial languages still wield ultimate power; the wealthiest children in many African, South and Southeast Asian, Middle Eastern, and Latin American countries attend international schools in which they speak and learn in English or French. Speaking these languages in a fluent, "refined" and non-creolized way then opens new doors to more prestigious (often Western) universities and higher-paying jobs.[13] While colonialism in its original forms has ended in many regions, colonial languages still dictate and correlate with who accesses power in these former colonies. Ngugi wa Thiong'o characterizes this dynamic: "The problem with Africa and the former colonies is that the whole intellectual community operates within European languages. The entire intellectual production of ideas is in foreign languages."[14] This results in a disconnect between the intellectual elites who are privy to international movements and

9 Thiong'o, *Decolonizing the Mind,* 12.

10 Henry Louis Gates, "Editor's Introduction: Writing 'Race' and the Difference It Makes," *Critical Inquiry* 12, no. 1 (1985): 13.

11 "June 16, 1976: Soweto Uprising," Zinn Education Project, accessed March 2, 2023, https://www.zinnedproject.org/news/tdih/soweto-uprising/.

12 *Ngũgĩ Wa Thiong'o: "Europe and the West Must Also Be Decolonised,"* 2019, https://www.youtube.com/watch?v=FOXqc-8zCPE.

13 Anna Corradi, "The Linguistic Colonialism of English," *Brown Political Review*, April 25, 2017, https://brownpoliticalreview.org/2017/04/linguistic-colonialism-english/.

14 "June 16, 1976."

conversations, and those who are utterly left out due to the language barrier.

III: Language in Today's Human Rights Regime

These structures that emphasize the global power of colonial language imposition can be traced all the way up to the UN and international courts. In 1946, shortly after the ratification of the UN charter, the UN established Chinese, French, English, Russian and Spanish as official languages, and English and French as working languages. This meant that, although official UN documents would be translated into all five official languages, UN proceedings would be conducted primarily in English and French. Arabic was later added as an official language, and all of the languages eventually became working languages of the General Assembly and Security Council, although they are far less widely used.[15] Because the UN official and working languages are limited to Arabic, Chinese, English, French, Russian, and Spanish, delegates in general must speak in one of these languages when giving speeches in UN bodies.[16] In this regard, we might contrast the UN with the EU, which has a non-restrictive language policy, and accommodates the official languages of all 23 of its member states. In the EU, a delegate may choose to speak in their own language and translation will be provided for them.[17] However, at the UN, if a delegate wishes to speak in a language apart from one of the six official languages, they must provide their own translation into one of the official languages.[18] As a result, in order to communicate most effectively as a delegate, it is necessary to speak one of the six official languages, especially English or French.

In many ways, it makes practical sense to depend most heavily on these six languages, because they are some of the most widely spoken languages in the world and thus most broadly accessible. However, we are faced with a dilemma: English and French, the languages that make the most practical sense for international cooperation, are languages that were spread through exploitation and international violence. In using them, we reaffirm the centrality of the powers that took part in this exploitation and enforce global pressure on non-speakers to learn these languages. Those who do not speak English or French, who tend to live outside of the US and Europe and enjoy fewer social and material advantages, are excluded from the human rights movement as a result.

Linguistic limitations have affected those who participate as delegates at the UN. Researcher Tomoyuki Kawashima explains the pressure delegates feel to speak in English and the complex politics of language that permeate discussion in the General Assembly in his paper "English use by heads of state at the United Nations General Assembly."

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15 "What Are the Official Languages of the United Nations? - Ask DAG!," accessed March 2, 2023, https://ask.un.org/faq/14463.

16 "Official Languages | United Nations," accessed March 2, 2023, https://www.un.org/en/our-work/official-languages.

17 Tomoyuki Kawashima, "English Use by the Heads of State at the United Nations General Assembly: Biennial Survey of 1,540 Speeches between 2004 and 2018," *English Today* 37, no. 2 (June 2021): 92, https://doi.org/10.1017/S0266078419000464.

18 "June 16, 1976."

Kawashima describes that delegates often choose to speak in English in moments when the persuasion of other delegates is most critical. The "international currency" of English and the power that its speakers hold make it a strategic choice. Delegates from countries in which English is not widely spoken often also choose to express themselves in English to display prestige to the citizens in their home countries where their speeches will be aired on television.[19] This association of English with prestige echoes Ngugi's account of English as "the language" to which

"WHILE COLONIALISM IN ITS ORIGINAL FORMS HAS ENDED IN MANY REGIONS, COLONIAL LANGUAGES STILL DICTATE AND CORRELATE WITH WHO ACCESSES POWER IN THESE FORMER COLONIES."

all other languages "bow in deference." Unlike the EU, where there is a standard of institutional accommodation to the linguistic particularities of its members through translation, the UN demands that its participants conform to narrow and prestigious linguistic expectations. Not only does this essentially necessitate that delegates speak one of these languages fluently, creating a steep barrier for engagement for peoples whose languages are excluded; it also links one's diplomatic adequacy to one's ability to conform to the use of English or French. As a result, unlike the EU, the UN language policy accustoms its participants to a culture in which it is expected that delegates prove their worth through learning an official language and, in many cases, refraining from communicating on their own terms.

Kawashima also notes that the common use of a language in international settings "suggests a high international standing and prestige of the language, which consequently strengthens national identity and pride of its speakers."[20] To illustrate this point and the link between the international propagation of one's language and national pride, Kawashima recounts an episode in which then-president of France, Jacques Chirac, stormed out of an EU summit meeting in 2006 because a French speaker had begun to use English to address delegates. Neglecting to speak French was an affront in Chirac's mind because it signaled an improper lack of respect for the prestige of French as the language of international diplomacy. This desire to enforce the use of one's language on others as a means of upholding the global status of the language is irreconcilable with the egalitarian founding principles

19 Kawashima, "English use by the heads of state at the United Nations General Assembly," 93-94.

20 Kawashima, "English use by the heads of state at the United Nations General Assembly," 94.

of the human rights movement. International bodies such as the UN which comprise the central mechanisms for human rights must remain disinterested in linguistic prestige and, instead, prioritize maximum accessibility.

These dynamics have created mounting frustration among Spanish-speaking delegates, who have long been concerned that proceedings are becoming less and less inclusive of their language. Of course, Spanish itself is a colonial language, but because it is so universally spoken within Spain's former colonies, enfranchising Spanish speakers likewise enfranchises communities that experienced colonialism. In 2001, a group of Spanish-speaking delegates urged Kofi Annan to right the increasing imbalance between English and other languages spoken at the UN, which had become "disturbing and alarming to those [they] represent[ed]."[21] English had come to far surpass other languages in "the drafting of major publications, negotiations on resolutions and even in decisions by governing bodies."[22] The Spanish-speaking delegates emphasized the importance of this issue not just as a "matter of principle," but also as a necessary adjustment in order for the UN to be able to honestly present itself as representative of the whole world.[23] UN officials countered that the cost of increased translations, even among the official languages, would be prohibitively high. The fact that Spanish-speaking delegates, whose language is one of the more commonly used *official* languages of the UN, feel excluded from the international community illustrates the profundity of this linguistic issue.

The transnational trial of members of former Syrian President Bashar al-Assad's government and the International Criminal Tribunal for Rwanda offer two illustrative examples of how linguistic exclusivity has reduced the on-the-ground impact of international human rights regime. Beginning in April of 2020, a small regional court in Koblenz, Germany began trials of several former Syrian government officials who were accused of war crimes and crimes against humanity. Most notably, senior official Anwar Raslan was eventually found guilty of co-perpetrating torture, 27 murders, and sexual violence, among other crimes.[24] However, official press releases for the court were all in German, and NGOs had to assume the job of translating proceedings and documents into Arabic and disseminating those translations among Syrians.[25] This dynamic is common among international courts, who tend to leave this crucial and arduous task to activists and organizations who are often unable to resource these projects.[26]

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21 "Plea to UN: 'More Spanish Please,'" June 21, 2001, http://news.bbc.co.uk/2/hi/asia-pacific/1399761.stm.

22 Kawashima, "English use by the heads of state at the United Nations General Assembly," 92.

23 Kawashima, "English use by the heads of state at the United Nations General Assembly," 92.

24 "Syria Trial in Koblenz: Life Sentence for Anwar R for Crimes against Humanity," accessed March 2, 2023, https://www.ecchr.eu/en/press-release/syria-verdict-anwar-r/.

25 Bailey, Charlotte. "Syrian War Crimes on Trial in Germany: Will Justice Be Lost in Translation?" *The New Humanitarian*, October 21, 2021. https://www.thenewhumanitarian.org/2021/10/21/syrian-war-crimes-trial-germany-will-justice-be-lost-translation.

26 Bailey, Charlotte. "Syrian War Crimes on Trial in Germany" *The New Humanitarian*,

This exclusion of the very people whom these crimes have affected the most prevents communities from experiencing a sense of justice through the international prosecution of these criminals. This was certainly the case in Syria during the Koblenz trials, where the outreach gap between the court and Syrian communities impeded the realization of justice. The lack of available information in Arabic opened the door for the deliberate spread of misinformation about the trial. In international courts in general, this linguistic exclusion is often a dissuasive force for potential key witnesses or accusers to engage with the court and share their experiences in pursuit of truth.[27] As a result of this dynamic, international courts become less able to gather relevant facts and testimony, leading to less effective trials. Perhaps most discouragingly, the largest effect of language and information barriers in international trials is utter unawareness of the international system of justice among affected communities. Syrian journalist Asser Khattab notes, "It struck me that every time I spoke to someone inside the country – and often Syrians outside the country – almost none of them knew there was a trial happening in Koblenz."[28] Many Syrians were completely unaffected by the trial as it was so removed from their language, and thus also their historical context and communities. This failure on the part of international courts occurred also in Rwanda, when the International Criminal Tribunal for Rwanda tried and delivered verdicts for those indicted for participation in the Rwandan genocide of 1994. Scholars Peter Uvin and Charles Mironko explore public receptions of this trial in their article "Western and Local Approaches to Justice in Rwanda." For the most part, the Rwandan population had "little or no opinion on the matter, largely because it [had] little or no knowledge of the ICTR." They continue, noting "the main sentiment in Rwanda regarding the ICTR may well be massive ignorance: ordinary people know or understand next to nothing about the tribunal's work, proceedings, or results."[29] This dynamic is powerfully synthesized by journalist Charlotte Bailey: "When justice happens far from where the crimes were committed, or in a language other than the one the victims speak, it often fails to include the people it is ostensibly meant to serve."[30] When trials are conducted by and for speakers of a language other than that of the affected community, too often, they are not a powerful source of justice.

Having discussed the effects of linguistic exclusion in the UN and courts that administer transnational justice, let us now turn to a brief discussion of how this dynamic affects English-speaking human rights students and advocates themselves. Not only do these systems of power exclude minority language speakers from participation in the hu-

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October 21, 2021. https://www.thenewhumanitarian.org/2021/10/21/syrian-war-crimes-trial-germany-will-justice-be-lost-translation.

27 "Syria Trial in Koblenz: Life Sentence for Anwar R for Crimes against Humanity."

28 "Syria Trial in Koblenz: Life Sentence for Anwar R for Crimes against Humanity."

29 Peter Uvin and Charles Mironko, "Western and Local Approaches to Justice in Rwanda," *Global Governance* 9, no. 2 (2003): 221.

30 Charlotte Bailey, "Syrian War Crimes on Trial in Germany: Will Justice Be Lost in Translation?," *The New Humanitarian*, October 21, 2021, https://www.thenewhumanitarian.org/2021/10/21/syrian-war-crimes-trial-germany-will-justice-be-lost-translation.

man rights regime, but they can also negatively affect majority language speakers' ability to effectively practice international and transnational advocacy. Researcher Sarah Knuckey and her co-authors discuss how human rights advocates who are outside of the communities they advocate for tend to "privileg[e] their own voice and vision over that of those most directly affected."[31] Although Knuckey and her co-authors are not explicitly talking about language here, the issue of privileging one's own figurative "voice" over others has literal linguistic implications. The fact that most human rights advocates from the US speak English as a native language means they can easily become accustomed to human rights as a system which caters to their perspective and situates them to "privileg[e]" their voices and language over advocates who do not speak English. Moreover, the constant use of one's native language in international bodies might atrophy one's general ability as an advocate to deal with new levels of cultural discomfort and to confront the areas in which one's perspective is not globally transcendent. The experience of attempting to follow, through translation, the conversation of a few members of a different community in a discussion of human rights issues within that community is an experience that can train one in adapting to new cultural environments. This practice of adaptation will be crucial in any truly intercultural construction of human rights. Having speakers express themselves in their native languages can reinforce a general understanding among those who speak English or French, for example, that understanding both the words and the perspectives of these people takes humility and continued effort.

"MANY SYRIANS WERE COMPLETELY UNAFFECTED BY THE TRIAL AS IT WAS SO REMOVED FROM THEIR LANGUAGE, AND THUS ALSO THEIR HISTORICAL CONTEXT AND COMMUNITIES."

IV: Practicality vs. Inclusivity Reconsidered

With the effects of linguistic exclusivity on international officials, those who face human rights abuses, and English-speaking transnational advocates in mind, let us return to the apparent tension between practicality and inclusivity introduced at the outset of this essay. To speakers of the most heavily used languages of the UN, English and French, we see the primary use of our languages in international bodies as a simpler system for the perpetuation and promotion of human rights which relies on English and French to reach wide swaths of the earth and eliminate inefficiencies caused by the extra costs of translating. However, to a non-speaker, and to many speakers of the less-heavily used official UN languages, this language barrier can be insurmountable. This being the case, the central difficulty is that human rights are presumably applicable to everyone, but current use of language in the human rights regime is exclusive. Until human rights advocates put in the resources and effort to communicate with minority language speakers on their own terms, this defining characteristic of human rights will not be realized. This is not an intangible theoretical qualm that places esoteric philosophical coherence over real-life effectiveness. For the human rights movement to be successful, it needs to shape itself to accommodate minority language speakers, not the other way around. Without

31 Sarah Knuckey et al., "Power in Human Rights Advocate and Rightsholder Relationships: Critiques, Reforms, and Challenges," *Harv. Hum. Rts. J.* 33 (January 1, 2020): 21.

linguistic accessibility, a global discussion of human rights is impossible; in the way not just that languages allow for different voices, but also that they allow for different perspectives on the concept of human rights. Human rights ideas as we currently understand them need to be shaped, augmented, refined, altered, and contradicted by other cultural perspectives. Thus, this is not a discussion of practicality versus effectiveness; effectiveness itself hinges on linguistic accessibility.

V: Searching for Solutions

Although this essay constitutes a profound critique of international bodies such as the UN and the ICJ, the support that these bodies have been able to provide for those suffering acute human rights violations has still been considerable. Instead of being a total invalidation of human rights, these critiques should be a reason for renewed emphasis on using human rights *ideals* to improve human rights *practices*.

There are some potential paths towards inclusive language practices in the UN and international courts. In terms of UN proceedings in bodies like the General Assembly, Security Council, and Human Rights Council, it is likely that English and French will continue to be spoken out of widespread convenience and the pressure to partake in the international prestige of the language. However, we can still aim to expand delegates' abilities to make speeches in the languages of their own countries. Based on the EU model, the UN could create a goal of the eventual implementation of a non-restrictive language policy that can accommodate the national languages of all member states for delegates' speeches. Although this will not stop the pressure to use English in day-to-day conversations, it could be effective in normalizing the use of minority languages in addition to the current official languages. Moreover, the UN should pursue increased language equity among the official languages when drafting major publications, negotiating resolutions, and in decision making by governing bodies, which were the primary areas of concern expressed by Spanish-speaking delegates in their letter to Kofi Annan. It is also worth noting the UN's many multilingualism resolutions which aim to expand equity among the official languages. Among these resolutions are minimum standards for multilingualism for UN websites, which emphasize "multilingualism should be incorporated from the very beginning of any website project and should not be considered a mere translation exercise."[32] This requirement to construct projects in the target language instead of translating them after the fact is an important concept that can guide the overall implementation of linguistic inclusivity in UN proceedings.

In terms of courts attempting to administer transnational justice, the active participation of members of the affected communities in their own language both in the courtroom and in the media is paramount. Advocate Maria Mabinty Kamara, whom Charlotte Bailey interviewed for The New Humanitarian, emphasizes that "a big interna-

32 "Minimum Standards of Multilingualism for United Nations Websites," United Nations (United Nations), accessed March 2, 2023, https://www.un.org/en/multilingualism-web-standards.

tional court like the International Criminal Court (ICC) can't compete with locals who understand the environment they live and work in, and local groups will never have the resources of an ICC. The key is to work together."[33] The ICC must initiate and actively support this collaboration with local journalists. Bailey notes the example of a non-profit news organization sending a well-known Liberian artist and three journalists to a Swiss court to cover the trial of Alieu Kosiah, a former rebel commander convicted of war crimes.[34] When it is impossible for trials to occur in the countries of the affected communities, international courts should aim to implement practices like these to increase news coverage that is linguistically and contextually relevant for those who experienced the human rights violations. Providing these translations prevents the spread of disinformation on proceedings and is crucial to the very outcomes of the communities involved. For these reasons, the cost of translation is certainly justified.

Above all, the most crucial step towards linguistic accessibility in international human rights-related proceedings is general outreach that aims to ask those who do not speak languages that carry international power what would best accommodate their needs and priorities. The international community must turn its attention towards UN delegates who wish to see more equality among the official languages, advocates who speak non-official languages who notice the ineffectiveness of international human rights work in their communities, and others who are left out of the discussion due to linguistic exclusivity. Only through listening to and amplifying these voices, in their own languages, can these goals be met.

33 "Syria Trial in Koblenz: Life Sentence for Anwar R for Crimes against Humanity."
34 "Syria Trial in Koblenz: Life Sentence for Anwar R for Crimes against Humanity."

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Dissimilar Justice

International Criminal Court Reparations in the Democratic Republic of the Congo

The International Criminal Court has ordered reparations five total times, with three of those cases taking place in the Democratic Republic of the Congo.

Although each defendant committed their crimes during the same conflict and in the same district, the ICC ordered vastly different reparations across the three cases. Drawing from both primary and secondary material, this paper concludes that the dissimilarity between ICC Reparations Orders in the DRC is the result of an interaction between several causal factors, including victim identity, victim participation, the crime(s) committed by the defendant, reparation type legitimacy, the Trust Fund for Victims (TFV) and feasibility, and Court evolution.

The Rome Statute, which entered into force in 2002, established the International Criminal Court (ICC), along with victims' right to reparations. Article 75 of the Statute states that "the Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation."[1] Since its inception, the ICC has ordered reparations in five cases—three of which are from the Situation in the Democratic Republic of the Congo (DRC): *The Prosecutor v.*

1 "Article 75," The United Nations Rome Statute of the International Criminal Court. International Organizations, 2001. Accessed October 5, 2021.

Thomas Lubanga Dyilo, The Prosecutor v. Germain Katanga, and *The Prosecutor v. Bosco Ntaganda.* Each defendant in these cases perpetrated horrific acts of violence in the Second Congolese War and/or shortly thereafter between 2002 and 2003 in the Ituri district of the Orientale province. Thus, each crime was committed within the same general context and many of their victims overlapped. Despite this, the ICC-mandated reparations were vastly different across the three cases. In one case, for instance, the Court issued collective service-based and symbolic reparations,[2] whereas the other two cases resulted in different mixtures of individual and collective reparations.[3] This presents a dilemma because while the Court requires that "the way reparations are addressed in any case before the Court need to be tailored to the particular circumstance of that case," each case from the DRC took place within a similar context.[4]

This research thus seeks to explain the variation between Reparations Orders mandated by the ICC in the Situation in the DRC, specifically in *The Prosecutor v. Thomas Lubanga Dyilo*, *The Prosecutor v. Germain Katanga,* and *The Prosecutor v. Bosco Ntaganda*. The answer is a variety of interacting causes, including victim identity, victim participation, the crime(s) committed by the defendant, reparation type legitimacy, the Trust Fund for Victims (TFV) and feasibility, and Court evolution—each of which will be expanded upon later. While there is a notable amount of scholarship on ICC reparations and on each individual case—particularly T*he Prosecutor v. Thomas Lubanga Dyilo* and *The Prosecutor v. Germain Katanga*—there is little scholarship that frames the DRC as a single case study. This is especially true since the Reparations Order from the most recent case, *The Prosecutor v. Bosco Ntaganda*, was only released in March of 2021. This paper is thus framed as a single case study of ICC Reparations Orders in the DRC. Each case will be addressed in chronological order to illustrate the specific contexts of the cases and how the Court built precedent over time.

This scholarship is necessary to gain a deeper understanding of how international criminal justice and reparations function across ICC Situations, as well as how the international community can improve transitional justice practices. While international criminal justice is not a novel field of international law, the ICC itself is relatively new, and its reparations regime even newer. It is important to critically reflect upon and evaluate its processes in order to ensure that its procedures and practices are as effective as possible.

Background

The backdrop for our puzzle is the ICC's significant lack of

2 "Case Information Sheet: The Prosecutor v. Thomas Lubanga Dyilo," International Criminal Court, Updated July 2021: 4, https://www.icc-cpi.int/CaseInformationSheets/lubangaEng.pdf.

3 "Case Information Sheet: The Prosecutor v. Germain Katanga," International Criminal Court, Updated July 2021: 1-2, https://www.icc-cpi.int/CaseInformationSheets/katangaEng.pdf. *AND* "Case Information Sheet: The Prosecutor v. Bosco Ntaganda," International Criminal Court, Updated July 2021: 3, https://www.icc-cpi.int/CaseInformationSheets/ntagandaEng.pdf.

4 *The Prosecutor v. Germain Katanga*, Public Redacted Version of Registry's Report on Applications for Reparations in Accordance with Trial Chamber II's Order of 27 August Annex I, ICC-01/04-01/07-3512-Conf-Exp-Anx1, 15 December 2014: 36.

procedural clarity and problematic inclusion of victims—notable points of criticism for many legal scholars. Critiques of reparations in theory and practice, however, will not be addressed, as this paper is not an evaluation of reparations, nor will critiques of the Office of the Prosecutor's (OTP) disproportionate focus on Africa be explored. While well founded, they are not relevant to this particular paper. Rather, the purpose of this piece is to evaluate the Court itself and what led it to make certain decisions. A discussion of the Court's procedural faults establishes proper context for what led the Court to issue different reparations in each case from the DRC.

Most notably, the ICC has serious inconsistencies between its procedures and overall goals. Balta et al., for example, argue that the Court's ability to implement reparations is hindered by both "procedural and conceptual challenges"[5]—a sentiment which is similarly reflected by Kotecha.[6] Balta et al. further contend that the incompatibility between the Court's procedures and goals is derived from three distinct factors: "(1) the narrowly defined charges against the accused which in turn dictate reparations; (2) the low number of beneficiaries, in contrast with the large number of victims; and (3) accountability of the accused."[7] Ultimately, Balta et al. argue, the Court seeks to implement restorative justice when in reality its procedures are designed to reach verdicts on criminal charges. In other words, criminal justice and victim justice are not synonymous. Demonstrative of this fact is the difficulty the ICC and the Trust Fund for Victims (TFV)—the ICC's reparations advising and implementing body—have in cooperating with one another, which is due to their vastly different mandates and practices.[8] This hybrid regime, Lambert argues, is ineffective because it prevents the ICC as an institution from realizing a cohesive ideology.[9] Kotecha echoes these concerns, further asserting that the OTP cannot reach the "fairest" decision because it is dually concerned with prosecution and public perception, which can often be in contradiction with one another. The Court believes it must speak for a wide range of groups simultaneously, including a nonspecific and broadly defined "international community," potential perpetrators, governments, and victims. As a result, it is uncertain of its ultimate goals.[10] This conflict between ICC procedure and goals establishes context for the Court's reparations decision making process.

In addition to the dichotomy between its punitive and restorative justice aims, the International Criminal Court also has a history of inconsistent procedures and practices when it comes to victim inclusion—a

5 Alina Balta, Manon Bax, and Rianne Letschert, "Trial and (Potential) Error: Conflicting Visions on Reparations Within the ICC System," *International Criminal Justice Review* 29, no. 3. (September 2019): 222.

6 Birju Kotecha, "The International Criminal Court's Selectivity and Procedural Justice," *Journal of International Criminal Justice* 18, no. 1. (March 2020): 107-139.

7 Balta et al., "Trial and (Potential Error)," 223.

8 Balta et al., "Trial and (Potential Error)," 225.

9 Elisabeth Lambert, "The ICC Regime of Victims' Reparations: More Uncertainties and Inconsistencies Brought to Light by Recent Cases," *Australian International Law Journal* 23, no. 1 (2017): 13.

10 Kotecha, "The International Criminal Court's Selectivity and Procedural Justice," 107-109.

critical explanatory cause in this research. Victim participation in this paper refers to the extent to which identified victims play an active role in Court proceedings and/or the Trust Fund for Victims' (TFV) work as individuals, groups, and/or via official legal representation. Victim participation in international criminal law is still an emerging practice—making the Rome Statute revolutionary in this vein, because "for the first time in the history of international criminal justice, victims have the possibility under the

"THE ICC CURRENTLY HAS "NO FORMAL RULES GOVERNING" ITS VICTIM INCLUSION PRACTICES, AND INSTEAD CHOOSES TO TAKE A CASE-BY-CASE APPROACH. THIS CASE-BY-CASE APPROACH CAN LEAD TO VICTIM INCLUSION PRACTICES THAT ARE POTENTIALLY SUBJECTIVE AND INACCURATE."

Statute to present their views and observations before the Court."[11] For example, as noted by Evans, victims were completely excluded from the Nuremberg and Tokyo Trials following World War II. Several decades later, although victims were paid greater attention, the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the Former Yugoslavia (ICTY) were still criticized for how little victims were permitted to actively participate in case proceedings. Such criticisms helped catalyze the norm change under the Rome Statute.[12] Now, due to this monumental shift, recognized victims have a significant stake in the ICC. Nevertheless, there continues to be fervent disagreement about whether or not this high level of participation ultimately benefits victims and provides them with adequate justice.[13]

This debate is largely rooted in the fact that the ICC currently has "no formal rules governing" its victim inclusion practices, and instead

11 International Criminal Court, *ICC Newsletter* (October 2004): 7, https://www.icc-cpi.int/NR/rdonlyres/4E898258-B75B-4757-9AFD-47A3674ADBA5/278481/ICCNL2200410_En.pdf.

12 Christine Evans, *The Right to Reparation in International Law for Victims of Armed Conflict* (New York: Cambridge University Press, 2012): 87-88.

13 American University Washington College of Law (WCL) War Crimes Research Office, "Victim Participation at the Case Stage of Proceedings," *International Criminal Court Legal Analysis and Education Project* (Washington DC: 2009): 3; Luke Moffett, *Justice for Victims before the International Criminal Court* (New York: Routledge, 2014): 94-96; Carolyn J. Dean, *The Moral Witness: Trials and Testimony after Genocide* (Ithaca, New York: Cornell University Press, 2019): 132-170; 174-179.

chooses to take a case-by-case approach.[14] This case-by-case approach can lead to victim inclusion practices that are potentially subjective and inaccurate. In addition to procedural inconsistencies it is extremely difficult to "properly" determine who counts as an eligible victim in the instance of mass atrocities. For instance, Keller specifically points to the possible hundreds of thousands of victims in just the DRC alone, and that identifying each victim, documenting exact harms suffered, and distributing sufficient reparations is a near impossible task.[15] Then, due to the astronomical number of potential victims, the Court becomes extremely backlogged. This backlog is worsened by the ICC's limited resources and the complexity of the victim participation application.[16] This phenomenon will be discussed extensively throughout this paper because the ways in which victims participated in each case hugely determined the outcome of reparations.

Several scholars argue this inability to reconcile punishment and restoration stems from an inherent issue in the way the ICC conceptualizes justice. Mégret believes this to be because the Court is modeled off of state domestic criminal courts, which explicitly prioritize prosecution over restoration.[17] The American University Washington College of Law's (WCL) War Crimes Research Office echoes this sentiment, stating that "treating ICC victims as closely as possible to "parties civiles" may not, in fact, be the best way to serve restorative justice goals."[18] Essentially, the ICC approaches the prosecution of mass atrocities and victims of said atrocities in the same manner that a domestic court would approach a criminal suit. Other scholars, such as Dean and Sander, add that because of this prosecutorial focus, victims are not treated as serious stakeholders but simply as moral legitimizers of the tribunal itself, or a justification for the institution's existence. This conceptual confusion results in "a clear subordination of the interests of victims to the adjudicative needs of the tribunals, whose primary function remained the determination of the culpability of the accused on trial."[19] In order to atone for this discrepancy, powerful actors imagine victims as a symbol, rather than individuals with legitimacy and agency. Consequently, "the symbolic victim provides a rationale for the usurpation of victims' voices by lawyers, human rights' proponents, and politicians, and is thus also an alibi for the empowerment of voices other than those of the victims."[20] This loss of voice for victims is also a concept that will be explored in depth in this paper, as the ICC did

14 Kotecha, "The International Criminal Court's Selectivity and Procedural Justice," 119; Dean, *The Moral Witness*, 138-144, 171-179.

15 Linda M. Keller, "Seeking Justice at the International Criminal Court: Victims' Reparations," *Thomas Jefferson Law Review* 29, no. 2. (Updated February 2009): 210-212.

16 War Crimes Research Office, "Victim Participation at the Case Stage of Proceedings," 1-55.

17 Frédéric Mégret, "The International Criminal Court Statute and the Failure to Mention Symbolic Reparation," *International Review of Victimology* 16, no. 2. (September 2009): 133.

18 War Crimes Research Office, "Victim Participation at the Case Stage of Proceedings," 3.

19 Barrie Sander, "The Expressive Limits of International Criminal Justice: Victim Trauma and Local Culture in the Iron Cage of the Law," iCourts Working Paper Series, no. 38 January 2016: 6.

20 Dean, *The Moral Witness*, 142.

not always listen to victims—especially during reparations proceedings.

Identified Concepts and Causal Factors

The outcome, or phenomenon that this research seeks to explain, is reparation type. As this paper solely addresses International Criminal Court reparations, the definition of reparations used in this research is limited to the definition outlined in the Rome Statute, which states that reparations for victims include "restitution, compensation and rehabilitation."[21] Reparations are meant to provide victims and the harms they suffered with proper acknowledgement and legitimacy. While reparations cannot always effectively repair damage, they are a critical aspect of the transitional justice process.[22] It is also worth noting that scholars and legal experts have since devised more inclusive definitions that include rights to satisfaction, disclosure of the truth, guarantees of non-repetition, accountability, and peacebuilding.[23]

Reparation type can be divided into three categories (which may be combined in a number of ways): individual, collective, and symbolic. Individual reparations refer to measures taken to assist victims on the individual level, whereas collective reparations seek to provide redress for entire victim groups. Symbolic reparations, on the other hand, are slightly more complicated. Although "by definition, all reparations have an important symbolic role,"[24] explicitly symbolic reparations are usually less material in nature and seek to provide victims with an intangible degree of satisfaction (harm recognition), as well as a guarantee of non-repetition.[25] Some examples of symbolic reparations include "a statement of apology… creating dignified burial sites, [and] establishing rehabilitation and community centers."[26]

In endeavoring to explain how the International Criminal Court ordered a different reparation type in each case, I have identified the following causal factors: victim identity, victim participation, the crime(s) committed by the defendant, reparation type legitimacy, the Trust Fund for Victims (TFV) and feasibility, and Court evolution. Victim participation has already been outlined extensively in the Background, so it will not be discussed too much until the findings section.

First and foremost, we must address the concept of the "victim." According to Rule 85 of the ICC's Rules of Procedure and Evidence:

> (a) "Victims" means natural persons who have suffered harm as a result of the commission of any crime within the jurisdiction of the Court;
>
> (b) Victims may include organizations or institutions that

21 Rome Statute, "Article 75(1)."

22 International Center for Transitional Justice (ICTJ), "Reparations in Theory and Practice," *Reparative Justice Series* (September 1, 2007): 4.

23 ICTJ, "Reparations in Theory and Practice," 1, 3; International Law Association (ILA), "Declaration of International Law Principles on Reparation for Victims of Armed Conflict," Resolution NO 2/2010, The 74th Conference of the International Law Association, The Hague, The Netherlands, August 2010, 1.

24 ICTJ, "Reparations in Theory and Practice," 4.

25 Mégret, "The International Criminal Court Statute and the Failure to Mention Symbolic Reparation," 129-131.

26 ICTJ, "Reparations in Theory and Practice," 4.

have sustained direct harm to any of their property which is dedicated to religion, education, art or science or charitable purposes, and to their historic monuments, hospitals and other places and objects for humanitarian purposes.[27]

Essentially, the ICC recognizes any person or entity that has sustained harm from any crime outlawed by the Rome Statute, but this harm must have been done by the defendant in some capacity. The Court does not have the authority to provide reparations to persons who were not victimized by a convicted individual. This is, of course, because the ICC is a judicial body before a restorative or transitional justice organization. As such, the Court has divided victims into two categories for identification: there are "those who happen to be victims of defendants selected for prosecution by the Court, and those who are victims of the same conflict or situation but whose tormentors are not before the Court."[28] The ICC separates these types of victims into two distinct but overlapping categories: direct and indirect victims. While ICC reparations can only be issued for the victims of convicted defendants and their crimes, the Court has given indirect victims reparations because indirect victims still experience harm that resulted from a defendant's actions. Unfortunately, however, it is extremely difficult to identify and categorize victims accordingly. The Court has attempted to define direct and indirect victims in each individual case, though it is worth noting that ICC judges are permitted to use their discretion when determining who constitutes a victim in a given case.[29]

"...THIS INABILITY TO RECONCILE PUNISHMENT AND RESTORATION STEMS FROM AN INHERENT ISSUE IN THE WAY THE ICC CONCEPTUALIZES JUSTICE."

Now that we have clarified who exactly the International Criminal Court recognizes as a victim, it is crucial to define victim identity—a key cause in determining the outcome of reparations. Victim identity, for the purposes of this research, will be defined as: personal and social components of an individual victim and/or victim group, including age, gender, familial status, ethnicity, socio-economic status, place of origin and/or of residence, nationality, legal victim status, and perpetrator status. Age, ethnicity, and gender are especially prominent in this research, as these identifications played significant roles in shaping how victims experienced their individual and group traumas. Ethnicity, for instance,

27 International Criminal Court, Rules of Procedure and Evidence, Rule 85, ICC-PIDS-LT-02-002/13_Eng, (Updated 2013): 31.

28 Keller, "Seeking Justice at the International Criminal Court," 203.

29 International Criminal Court, *ICC Newsletter*, 7.

was a large consideration in all three cases, but especially those of *Lubanga* and *Ntaganda*, as the Court had to consider whether or not reparations for certain groups would escalate ethnic tensions.

Victim identity is further complicated by the phenomenon of perpetrator victims, otherwise known as guilty or "complex victims." A complex victim is defined as "those who have been victimized but are responsible for victimizing others." These victims are distinct from "innocent victims", or "those who are not members of armed groups (i.e., civilians)."[30] Many innocent victims and non-victims alike have understandably serious apprehensions about providing reparations to complex victims, and often find the idea deeply insulting. However, complex victims have been recognized as legitimate victims in several cases. For instance, both Lubanga and Ntaganda were convicted of conscripting and enlisting child soldiers. These child soldiers are considered direct victims of the defendants' crimes who then went on to commit atrocities themselves. Under the International Criminal Court, these children are considered complex victims worthy of reparations. The victims of these child soldiers and/or the children's families would then be considered indirect victims of the defendants. Identity is thus an incredibly important causal concept because identity contextualizes victims' sufferings and helps dictate their immediate and long-term needs. It is also very tied to victim participation, as victims' identities shape *how* they interact with the ICC and TFV. In other words, their identity informs their participation.

How well reparations can address victims' needs is highly dependent on whether or not that form of reparations has legitimacy among victims—otherwise known as reparation type legitimacy. Reparation type legitimacy refers to perceptions or assumptions by victims that the actions of the International Criminal Court are desirable, proper, and/or appropriate within the socially constructed system of norms, values, beliefs, and definitions of the victim group. This definition draws upon and specifies Suchman's conceptualization of legitimacy in social science.[31] The legitimacy of different forms of reparations influences how effective that type of reparations is at repairing harm. This means that reparation type legitimacy is a more prominent causal factor in the *Katanga* and *Ntaganda* cases because they each occurred after Lubanga's conviction. Thus, after the implementation of *Lubanga* and *Katanga* reparations, victims had the opportunity to observe the successes and failures of past reparations programs.

Evidence shows, as we will explore, that the Court accounted for these failures and responded to shifts in reparation type legitimacy that arose as a result. For instance, although Western scholars and lawyers tend to view symbolic and transformative measures as more effective forms of reparations, "in the *Katanga* case the victims are more at odds with this approach, with the majority demanding individual compensation and finding collective and transformative measures ineffective as non-

30 Luke Moffett, "Reparations for 'Guilty Victims': Navigating Complex Identities of Victim—Perpetrators in Reparation Mechanisms," *International Journal of Transitional Justice* 10, no. 1 (December 2015): 148.

31 Mark C. Suchman, "Managing legitimacy: Strategic and institutional approaches," *The Academy of Management Review* 20, no. 3 (July 1995): 574.

victimised members of the community were able to benefit."[32] In the *Lubanga* case, the Court ordered collective reparations, which inadvertently benefitted non-victims, which was not an entirely successful approach. Katanga's victims were dissatisfied with the idea that non-victims, indirect victims, and/or complex victims could possibly benefit from reparations and adamantly advocated for individualized reparations. Thus, it is clear that collective reparations lost their legitimacy among victims.

The Court's response to each of the aforementioned causes signals institutional learning. The ICC is still a very novel organization and is continually learning from its successes and failures. In regard to reparations, specifically, the Court has been building upon and expanding its existing infrastructure when necessary as new cases arise. Court evolution is therefore defined as the ways in which the International Criminal Court and its programs expand, shrink, and/or change over time as the Court continues to learn and establish itself. The most prominent example of this evolution is the reparations program for former child soldiers in the *Lubanga* and *Ntaganda* cases. There were many overlapping victims across cases and, rather than rebuild new rehabilitation programs for former child soldiers, the Court utilized existing reparations infrastructure to address the needs of Ntaganda's child soldier victims. This example will be explored in much greater detail in the analysis portion.

The crime(s) committed by the defendants also significantly affects the outcome of Reparations Orders. Thomas Lubanga, Germain Katanga, and Bosco Ntaganda all committed crimes during the Second Congolese War, however, the individual crime(s) they committed largely determined the type of reparations mandated by the ICC in each case. For example, a victim from the ICC's Situation in the DRC is considered a victim of the Second Congolese War, but is first and foremost a victim of the crime(s) committed directly against them, such as pillaging or conscription and enlistment as a child soldier. In other words, the defendant's crime(s) shape the specific context of each case, including victims' unique experiences of harm and their subsequent reparations needs. Therefore, the specific crime(s) committed by defendants before the Court naturally influences the ICC's reparations decision and implementation plan.

The final explanatory concept is the Trust Fund for Victims and reparations feasibility. The two are not entirely the same but are inherently related. The ICC itself is not actually responsible for implementing reparations and providing post-conflict support—that duty lies with the TFV. When issuing a Reparations Order, the Court must consider the Trust Fund's capacity to implement reparations effectively—a capacity that is highly limited for a number of reasons, including but not limited to funding, victim identification issues, potential and/or persistent conflict etc. However, the Trust Fund is unique in that it has two separate mandates: the Reparations Mandate and the Assistance Mandate. The Reparations Mandate requires the TFV to implement Court-ordered reparations against a convicted person via "funds from the convicted person and/or [it] uses its voluntary contributions upon the Board of Director's decision."

32 Luke Moffett, "Reparations for victims at the International Criminal Court: a new way forward?" *The International Journal of Human Rights* 21, no. 9 (2017): 1213.

The Assistance Mandate refers to the TFV's work to provide redress for the most vulnerable victims by partnering with non-governmental organizations and other local partners.[33] The barriers to the TFV's capacity to implement reparations will be explored in more detail in the analysis section. It is important to note that, unless otherwise specified, this paper will be referring to the Trust Fund's Reparations Mandate because the Reparations Mandate is primarily responsible for carrying out a Court order for reparations.

Originally, Court legitimacy and politicization were identified as potential causal factors. However, they were ruled out because there was not enough evidence to support these theories, nor did they necessarily fit the lens used in this research. Firstly, Court legitimacy was not a significant enough factor because the International Criminal Court already views itself as a legitimate institution and operates as such. While its legitimacy is frequently questioned by outside groups, including victims, the Court itself does not call its own legitimacy into question when issuing decisions. Perceptions of Court legitimacy can influence how well reparations are received, but this would not fall under reparation type legitimacy. Politicization was a factor in leading to the outcome of reparations but can also be categorized under other identified causes. For example, rivalry between political factions in the DRC is key to understanding each crime committed, as each defendant was part of a militia involved in a complex conflict. Political differences are also central to feasibility, as many politically charged tensions, such as land disputes, hindered the TFV's capacity to implement reparations programs.

Methodology

This case study primarily draws from a constructivist ontology and epistemology. In forming my theory and concepts, I heavily relied upon the idea of "*mutual constitution* [emphasis added]"—or multicausality—and emphasized the study of "intersubjectivity, context, and power." In analyzing my data, I also stressed *interpretive causality*.[34] Mass atrocities, international criminal tribunals, and reparations are extremely complex phenomena that are inextricably linked to a multitude of intersubjective perspectives and discourses, contexts, and power structures. For instance, victim identity and the crimes committed against those victims create victims' contextual realities and perspectives. The ICC had to then weigh these often competing, intersubjective perspectives when making its decisions. As such, an attempt to explain what led the ICC to order reparations in each case cannot be approached using neo-positivist methods.

Thus, rather than focusing on data collection, I emphasized multicausal data generation and interpretation. In doing so, I almost exclusively analyzed primary source documents, namely Court records and official ICC press releases. In searching for and selecting documents, I began by using the ICC database's search tool, in which I specifically narrowed down my search to documents related to the reparations/compensation

33 Trust Fund for Victims, "Our Mandates," About Us, https://www.trustfundforvictims.org/en/about/two-mandates-tfv.

34 Audie Klotz and Cecelia M. Lynch, "Chapter One: Constructivism," *Strategies for Research in Constructivist International Relations* (New York: Routledge, 2007): 7, 12-16.

phase of the three cases. After finding my initial set of documents, I largely relied on snowball sampling because the ICC routinely cites itself. Thus, valuable information in one document frequently referenced related valuable information in another document. Information that I generated was categorized using both deductive and inductive coding. I began with a set of predetermined causal concepts that I initially theorized and deductively identified in my data. Nonetheless, after sifting through several sources, I discovered other causes that I had not previously accounted for, such as victim identity—particularly the importance of ethnic identity—and transitioned to using a combined deductive and inductive coding strategy.

There are several limitations to this research, with the most outstanding being that of breadth. The ICC's court records database contains thousands of documents just for the Situation in the DRC. Many of these documents are incredibly long and complex. Discerning which documents were worth reading was extremely difficult, and I was limited in my capacity to examine all of them. Moreover, full transcripts of victim testimonies have not been translated into English and, as a non-French speaker, I was unable to use them. However, I am confident that I selected my sources well based on snowball sampling, as it quickly became clear which documents the Court frequently cited in its own records—indicating which documents were the most important. I am also confident that my analysis is highly plausible considering my strong interpretation and emphasis on mutual constitution, and I was able to draw connections between causes throughout my data to uncover a multilayered causal story.

"HOW WELL REPARATIONS CAN ADDRESS VICTIMS' NEEDS IS HIGHLY DEPENDENT ON WHETHER OR NOT THAT FORM OF REPARATIONS HAS LEGITIMACY AMONG VICTIMS."

Case Analysis

Brief Background

The Second Congolese War, sometimes referred to as the "African World War," officially lasted from 1998-2003, but severe violence is still ongoing throughout the DRC. Brutal fighting initially broke out when a Rwandan and Ugandan-backed rebel group known as the *Rassemblement Congolais Democratique* (RCD) tried and failed to oust Congolese President Laurent-Desiré Kabila in 1998. However, he was eventually assassinated in 2001 and replaced by his son, Joseph Kabila. In 1999, the Lusaka Ceasefire Agreement was signed and UN Peacekeepers were deployed, but these efforts failed to end the violence. Many more militias were formed throughout the conflict, with up to fourteen armies fighting simultaneously—making peacebuilding efforts extremely difficult. A series of peace agreements were finally signed in 2002 and 2003 *officially* ending the war, but violence continued to occur.[35]

The war is frequently referred to as an "interethnic conflict," as many of the rebel groups formed based on shared ethnic identities and prejudices. However, contrary to popular belief, these tensions are not rooted in "traditional" or "ancestral" differences, but rather socio-economic inequities that largely originated during the Belgian colonial rule over Zaire (now the DRC).[36] The colonial regime unequally divided land and

35 Tufts University, "Democratic Republic of Congo 1998-2003," Mass Atrocity Endings, 18 September, 2018, https://sites.tufts.edu/atrocityendings/2015/09/18/democratic-republic-of-congo-zaire/.

36 *The Prosecutor v. Germain Katanga*, Judgment pursuant to Article 74 of the Statute,

other economic resources among ethnic groups, favoring some over others. Tensions between these groups were then exaggerated by foreign influence during the war itself—primarily that of Rwanda and Uganda.[37] Each ICC case explored in this paper is situated within this general context, but more specifically, in the Ituri district, where the fighting was especially gruesome and politically complex. Hence, our dilemma. Although the defendants operated concurrently and under very similar circumstances, the outcome of reparations varied widely. In the following sections I will discuss the defendant's crimes in the order in which they were handled by the ICC. The *Lubanga case* will be discussed in the most detail, as it is the oldest Congolese case and, therefore, has much more available information than the other two cases.

The Prosecutor v. Thomas Lubanga Dyilo

Thomas Lubanga is a founding member and former leader of the *Union des Patriotes Congolais* (UPC) militia group and its military apparatus, the *Force patriotique pour la libération du Congo* (FPLC), also known as the Patriotic Force for the Liberation of Congo. In 2012, the International Criminal Court, found him "responsible, as co-perpetrator, for the charges of enlisting and conscripting children under the age of fifteen years into the FPLC and using them to participate actively in hostilities… from early September 2002 to 2 June 2003."[38] Lubanga's war crimes conviction was monumental because it was the International Criminal Court's first verdict. The ICC announced its initial order for reparations in August of 2012 titled the Decision, establishing the principles and procedures to be applied to reparations,[39] but released an amended Reparations Order in 2015.[40] Reparations finally ordered against Lubanga were "collective service-based" reparations—including tangible measures such as "mental & physical health services to address the trauma and bodily harm suffered" and "vocational training to account for the absence of skills learned during development years." Underneath the umbrella of collective service-based reparations, the Trust Fund for Victims also implemented more symbolic gestures, such as the "construction of symbolic structures" and "a mobile programme to host interactive symbolic activities and to reduce stigma against former child soldiers."[41]

A foremost concern in deciding reparations in this case was the potential for conflict escalation due to victims' ethnic identity, as well as their status as former child soldiers, who are considered complex victims and highly stigmatized. The majority of victims were members of the

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ICC-01/04-01/07-3436-tENG, 7 March, 2014: 258-260; *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment pursuant to Article 74 of the Statute, ICC-01/04-01/06-2842, 14 March, 2012: 43-44.

37 ICC-01/04-01/06-2842: 43-44.

38 ICC-01/04-01/06-2842: 7.

39 *The Prosecutor v. Thomas Lubanga Dyilo*, Decision establishing the principles and procedures to be applied to reparations, ICC-01/04-01/06-2904, 7 August 2012: 1-94.

40 *The Prosecutor v. Thomas Lubanga Dyilo*, Judgment on the appeals against the "Decision establishing the principles and procedures to be applied to reparations" of 7 August 2012 with AMENDED order for reparations (Annex A) and public annexes 1 and 2, ICC-01/04-01/06 A A 2 A 3, 15 March 2015: 1-97.

41 Trust Fund for Victims, "The Lubanga Case," What We Do, https://www.trustfundforvictims.org/en/what-we-do/reparation-orders/lubanga.

Hema ethnic group, as Thomas Lubanga primarily conscripted children from his own ethnic community. Many involved parties were thus worried that reparations would be regarded as ethnic favoritism. These groups were also concerned that many Congolese people would be angered by the awarding of reparations to child soldiers, whom they primarily view as perpetrators. Despite it being an internally recognized crime, child recruitment is also not always viewed as inherently wrong in select areas, thus meaning that child soldiers are not necessarily seen as victims to begin with. As such, most victims involved in the proceedings, along with their legal representation, advocated for individualized reparations. However, several of these groups still acknowledged that collective reparations had the potential to de-stigmatize former child soldiers. It is therefore clear that the specific crime committed by the defendant—that of conscripting and enlisting child soldiers—played a significant role in shaping the outcome of reparations.

In attempting to come to a decision, the Trial Chamber heard advice from several interested parties, including victims. Throughout both the trial and post-trial phases, a total of 146 people were recognized as victims and permitted to participate in the proceedings.[42] Victims were represented by the Legal Representatives of the Victims—a team of external legal counsel who represented two separate groups of victims referred to as V01 and V02, and the Office of Public Counsel for Victims (OPCV)—a team that represented victims "unrepresented" and unidentifiable applicants. Most of the teams consulted argued in favor of individualized reparations largely due to the previously stated concerns. For example:

> The legal representatives of the V01 group of victims submit that the majority of the individuals they represent contend that collective reparations are difficult to apply to former child soldiers because they are not a cohesive group, and they are often in conflict with their own communities… it would be illogical to award reparations for the benefit of the Hema community as a whole, and this would be unfair to other communities. However, they support collective reparations as a means of reintegrating former child soldiers.[43]

It is evident here that victims themselves were generally opposed to collectivized reparations because they feared that collective reparations primarily given to Hema children would be viewed as reparations for the Hema community exclusively. Although the ICC can only issue reparations for victims of crimes committed by the defendants, the potential for perceived ethnic favoritism could escalate already highly precarious ethnic relations. Moreover, the V01 team emphasized that child soldiers, despite sharing an ethnic identity, are not a cohesive group and have vastly different needs due to the specific harms suffered as a result of their conscription. As such, in one interview with victims "twelve of the fourteen interviewees consider that individual financial compensation,

42 *Lubanga*, "Case Information Sheet," 3.
43 ICC-01/04-01/06-2904, 7 August 2012: 20.

even though limited, would be useful to them or even necessary."[44] Many victims felt that individual financial assistance would be more beneficial to them, as it would help avoid further ethnic confrontation and allow them to address their own needs.

Nonetheless, the V01 team recognized that collective reparations would be beneficial for de-stigmatization. In the same interview, victims confirmed this sentiment:

> The majority of former child soldiers in group V01 (9 of 12) thus support the idea of an outreach campaign in the community to combat the unsavoury reputation of former child soldiers (bad, violent or delinquent boys, "sullied" girls) and to encourage respect for and solidarity with these victims. This view is shared by the two parents who were consulted. The creation of a memorial to the children who died in combat and to denounce the horror of recruitment of children was also well received by the victims (10 of 14).[45]

Child soldiers are evidently complex victims. Male child soldiers in particular often maintain, at least in part, their perpetrator status. Female child soldiers, on the other hand, are frequently viewed as tainted because many of them faced sexual violence throughout their service in the UPC/FPLC.[46] Thus, the Court looked favorably upon efforts to reintegrate former child soldiers back into their communities, as well as call attention to victim suffering. The de-stigmatization effort would preferably be two pronged: one part would attempt to demonstrate to the general Congolese population why conscripting child soldiers is harmful and worthy of criminalization, while the other aspect would seek to facilitate reconciliation between child soldiers and their communities. Victims also advocated for commemoration or memorialization measures—forms of symbolic reparations—that would acknowledge and legitimize the suffering of former child soldiers.

Such attitudes were similarly reflected by the V02 team, who also argued in favor of individual reparations but recognized the importance of collectivized aspects:

> Although the legal representatives of the V02 group of victims argue in favour of individual reparations, they submit that collective reparations could serve to avoid a negative perception of child soldiers on the part of other members of their communities; they would be open to child soldiers who did not participate in the proceedings; and they may deter child recruitment.[47]

Like the V01 team, the V02 group confirmed that victims desired

44 *The Prosecutor v. Thomas Lubanga Dyilo*, Observations on the sentence and reparations by Victims a/0001/06, a/0003/06, a/0007/06, a/00049/06, a/0149/07, a/0155/07, a/0156/07, a/0162/07, a/0149/08, a/0404/08, a/0405/08, a/0406/08, a/0407/08, a/0409/08 , a/0523/08, a/0610/08, a/0611/08, a/0053/09, a/0249/09, a/0292/09, a/0398/09 and a/1622/10, ICC-01/04-01/06-2864-tENG, 18 April 2012: 5.

45 ICC-01/04-01/06-2864-tENG: 5.

46 ICC-01/04-01/06-2904: 31, 36.

47 ICC-01/04-01/06-2904, 7 August 2012: 20.

individual reparations because individual reparations were seen as the best way of addressing individual harms suffered. Furthermore, both groups posited that collective reparations could play a role in helping to de-stigmatize former child soldiers. However, the V02 group made an additional contribution to the conversation, stating that collective

"DESPITE IT BEING AN INTERNALLY RECOGNIZED CRIME, CHILD RECRUITMENT IS ALSO NOT ALWAYS VIEWED AS INHERENTLY WRONG IN SELECT AREAS, THUS MEANING THAT CHILD SOLDIERS ARE NOT NECESSARILY SEEN AS VICTIMS TO BEGIN WITH."

reparations would benefit victims who did not have the unique opportunity of participating in Court proceedings or had been yet to be identified. This is noteworthy because the majority of victims were unable to participate in the proceedings, and it would be woefully unfair if only participating victims were granted reparations.

Although many victims and their legal representation stated that collective and/or symbolic reparations may be beneficial for them, individual reparations carried much more legitimacy among victims. Despite this, the Trust Fund for Victims argued for an almost entirely collective approach, contending that:

> The source of funding may affect whether there should be an individual or collective award… Additionally, the TFV submits that individual awards which are dependent on successful applications to participate may not be the most appropriate approach in the present case, given only a small number of victims are currently participating and they are not necessarily representative of the wider group of victims. It is estimated that thousands of individuals are believed to have been victims in the district of Ituri and it would be a resource intensive and time-consuming undertaking for the Court to attempt to assess the position of each of them.[48]

The TFV's primary concern was how to realistically address victim needs, and thus considered practical limitations. Funding for reparations in the Lubanga case was extremely limited because "the convicted person has been declared indigent and no assets or property have been identified

48 ICC-01/04-01/06-2904: 17-18.

that can be used for the purposes of reparations."[49] The Court would preferably draw from the perpetrators' personal assets to fund reparations, but Lubanga's fiscal situation prevented him from being financially liable. Thus, the TFV had to rely on external financing to implement reparations, which impaired its ability to implement individualized reparations. Moreover, the ICC would likely be unsuccessful if it tried to identify every single victim. Thus, keeping in mind the Court's final decision, it seems that feasibility significantly overruled what victims advocated for.

After hearing each of these arguments presented before it, the Trial Chamber issued its *Decision establishing the principles and procedures to be applied to reparations* in 2012, in which the ICC issued collective reparations for identified direct and indirect victims. Reparations consisted of various efforts to promote restitution through education, job renewal, and housing projects; compensation through economic assistance programs; and rehabilitation through "the provision of medical services and healthcare… and any relevant legal and social services."[50] The distribution and implementation of these reparations were to be gender-inclusive and given first to the most vulnerable victims. Unfortunately, due to the defendant's financial situation, the Chamber stated that Lubanga did not bear personal liability and would "only [be] able to contribute to non-monetary reparations. Any participation on his part in symbolic reparations, such as a public or private apology to the victims, is only appropriate with his agreement. Accordingly, these measures will not form part of any Court order."[51]

Shortly after the Trial Chamber released this decision, the Defense, followed by the Legal Representatives of the Victims and the OPCV, submitted appeals. The Defense posited that naming certain groups as beneficiaries—including victims who did not participate in the trial and victims of sexual violence—violated the rights of the accused.[52] Firstly, the Rome Statute states that only recognized victims can be beneficiaries of reparations, and the Defense claimed that non-participating victims should not be considered recognized victims. Secondly, the Statute stipulates that reparations can only be ordered against the specific crime(s) of the defendant, and Lubanga was not convicted of sexual or gender-based crimes. The Defense therefore argued that reparations for victims of sexual violence violated the Statute.

The V01 team both countered the Defense's claims and challenged the Chamber's decision, contending that "the Trial Chamber erred in law by dismissing the individual applications for reparation without entertaining them," and "erred in law by absolving the convicted person from any obligation as regards reparations."[53] In accordance with its recommendation to the ICC on behalf of victims, the Legal

49 ICC-01/04-01/06-2904: 88.

50 ICC-01/04-01/06-2904: 69-70, 76-79.

51 ICC-01/04-01/06-2904: 69-79, 88.

52 *The Prosecutor v. Thomas Lubanga Dyilo*, Decision on the defence request for leave to appeal the Decision establishing the principles and procedures to be applied to reparations, ICC-01/04-01/06-2911, 29 August 2012: 5.

53 *The Prosecutor v. Thomas Lubanga Dyilo*, V01 team of legal representatives Appeal against Trial Chamber I's *Decision establishing the principles and procedures to be applied to reparation* of 7 August 2012, ICC-01/04-01/06-2914-tENG, 3 September 2012: 5-6.

Representatives of Victims continued to advocate for individualized reparations. A collective approach and deferral of reparations to the TFV entirely, they argued, violated individual victims' right to reparations outlined in the Rome Statute. The Legal Representatives further contended that the Chamber violated the Statute by relieving Lubanga from any responsibility for reparations. Despite funding issues, the V01 team argued, if reparations were to be made against a defendant, then the defendant should be liable no matter their financial situation.

The Appeals Chamber ultimately released its decision on the submitted appeals in 2015, along with an amended Reparations Order.[54] In its decision, the Court ruled against the Defense's claim about victims of sexual violence, stating that "the Fund may consider providing support to victims of sexual violence in Ituri, although Mr Lubanga has not been accused or convicted of crimes of sexual violence." The TFV's dual mandate "of general assistance to victims in situations where the ICC is active, and the mandate to contribute to the implementation of orders for reparations to victims in particular cases before the Court" allows the ICC to simultaneously provide victims of sexual violence with redress without violating the Rome Statute or the defendant's rights.[55] Evidently, the Trust Fund played a significant role in determining the outcome of reparations. Its external sources of funding and dual mandate allow it to deliver reparations for a more general population of victims without making the defendant liable.

However, the decision to entirely absolve Lubanga from responsibility for reparations was overturned, despite his limited finances. The Appeals Chamber ruled that:

> The Trial Chamber erred in not making Mr Lubanga personally liable for the collective reparations due to his current state of indigence. The Appeals Chamber held that reparations orders must establish and inform the convicted person of his personal liability with respect to the reparations awarded, and that if the Trust Fund for Victims advances its resources in order to enable the implementation of the order, it will be able to claim the advanced resources from Mr Lubanga at a later date.[56]

As reparations are supposed to be made against a specific defendant for their crimes, absolving Lubanga from responsibility wholly due to his poor financial situation would be harmful. It would demonstrate to victims that the perpetrator of the crimes committed against them is not responsible for their harm and subsequent redress. This decision is also of note because it establishes a precedent for future Reparations Orders and perpetrator liability, which will be significant in both the *Katanga* and *Ntaganda* cases.

Finally, the Appeals Chamber ruled against the V01 legal team and confirmed the Trial Chamber's decision to rely almost solely on

54 ICC-01/04-01/06 A A 2 A 3: 1-97.

55 *The Prosecutor v. Thomas Lubanga*, Questions and Answers: Appeals judgment on reparations in the Lubanga case, ICC-PIDS-Q&A-DRC-01-01/15_Eng, Updated 3 March 2015: 1.

56 ICC-PIDS-Q&A-DRC-01-01/15_Eng: 1.

"ALTHOUGH THE ICC CAN ONLY ISSUE REPARATIONS FOR VICTIMS OF CRIMES COMMITTED BY THE DEFENDANTS, THE POTENTIAL FOR PERCEIVED ETHNIC FAVORITISM COULD ESCALATE ALREADY HIGHLY PRECARIOUS ETHNIC RELATIONS."

collectivized reparations—effectively denying participating victims and their legal representation of their requests. In defense of its choice, the Appeals Chamber "highlighted that the number of victims is an important factor in determining that reparations on a collective basis are more appropriate."[57] The TFV, while able to use external funding from donating States and organizations, ultimately did not have the ability to provide individual reparations, nor did any of the Court's apparatuses have the capacity to identify each victim. This decision is reflective of the argument made by the TFV in the initial Decision establishing the principles and practices to be applied to reparations, which emphasized the thousands of potential victims that the Court would not be able to reach if it took an individual approach. Therefore, it is clear that in this case, the capacities of the Trust Fund for Victims were given priority over the identity and participation of victims, the crime(s) committed, and reparation type legitimacy—though they were all still contributing factors.

The Prosecutor v. Germain Katanga

Germain Katanga was "found guilty, as an accessory, of one count of crimes against humanity (murder) and four counts of war crimes (murder, attacking a civilian population, destruction of property and pillaging) committed on 24 February 2003 during the attack on the village of Bogoro" in 2014.[58] At the time, Bogoro—a village located in the Ituri district—was under the control of the Ugandan-backed UPC militia, composed primarily of Hema combatants. The attack was perpetrated by a rival Ngiti militia known as Patriotic Force of Resistance in Ituri (FPRI), of which Katanga was the "*de jure* supreme commander," with "*de facto* ultimate control over FRPI commanders."[59] Katanga himself is Ngiti—an ethnic subgroup of the Lendu that predominantly resides south of Bunia, the capital of Ituri.[60] Originally, the Court jointly tried both Germain Katanga and an accused co-perpetrator, Mathieu Ngudjolo Chui, in 2008 after apprehension. However, the cases were severed in 2012, and Katanga's case proceeded with the singular defendant case.[61] The Court issued an official Reparations Order in 2017,[62] including "a symbolic compensation of USD 250 per victim [for 297 victims] as well as collective reparations in the form of support for housing, support for income-generating activities, education aid and psychological support."[63]

Germain Katanga's case is uniquely interesting, as it shares fewer commonalities with the other two cases. For instance, the type of crimes committed by Germain Katanga were significantly different from

57 ICC-PIDS-Q&A-DRC-01-01/15_Eng: 1.

58 *The Prosecutor v. Germain Katanga*, Questions and Answers on Reparations in the Katanga Case, ICC-PIDS-Q&A-DRC-01/04-01/07_FR, 24 March 2017: 1; ICC-01/04-01/07-3436-tENG: 15-16.

59 *The Prosecutor v. Germain Katanga*, Decision on the confirmation of charges, ICC-01/04-01/07-717, 30 September 2008: 182.

60 ICC-01/04-01/07-3436-tENG: 270-272.

61 ICC-01/04-01/07-3436-tENG: 20, 24.

62 *The Prosecutor v. Germain Katanga*, Order for Reparations pursuant to Article 75 of the Statute With one public annex (Annex I) and one confidential annex ex parte, Common Legal Representative of the Victims, Office of Public Counsel for Victims and Defence team for Germain Katanga (Annex II), ICC-01/04-01/07-3728-tENG, 24 March 2017: 1-120.

63 *Katanga*, "Case Information Sheet," 2.

those committed by Lubanga and Ntaganda, who were both convicted of conscripting and enlisting child soldiers. Lubanga and Ntaganda also share a common ethnicity and were former members of the same militia. Thus, Katanga's case is the best example of why the crime(s) committed by the defendant is a significant causal factor in determining ICC reparations in the DRC. The harm that victims of the Bogoro attack suffered was, in many ways, very different from the harm suffered by former child soldiers. While all were equally horrific, they were different in nature. Victims of the attack suffered major economic losses, especially land, property, and housing destruction. Consequently, what victims advocated for was largely determined by the ways in which their identity intersected with the harm they experienced. For instance, ranching and the raising of livestock was an extremely popular occupation that significantly shaped Bogoro's local economy and customs—particularly among the sizable Hema population living there. Much of the ranching land, equipment, and livestock was destroyed when the FPRI attacked. Many victims also lost their homes and/or a family member. In many cases, this caused mass displacement and made it more difficult for families to get by. No longer able to finance their childrens' school tuition, children stopped attending school.[64] As such, the majority of victims wanted economic compensation because they believed that it would best repair the harm they suffered.

The ICC Registry confirmed this notion in its consultation with victims. In this case, victims were once again represented by the Legal Representatives of Victims, but they were not divided into subcategories nicknamed V01 and V02, as was done in the *Lubanga* case. In a survey of 305 identified victims, "over 98% of the victims reported having suffered from each of the crimes characterised as 'Attack on a Civilian Population'; 'Pillage'; and 'Destruction of Property'" and "over 99% of the victims consider that economic development and financial measures would be the most appropriate form of reparations."[65] These high percentages indicate that the nature of Katanga's crimes, which differed significantly from the other two defendants, shaped victims' needs. Victims felt that their specific needs would only be addressed through economic or monetary reparations because the harm they experienced at the hands of the convicted person was largely economic. This need for economic assistance was further amplified by victims' identities. For instance, women typically bore a significant burden after the attack, during which many of them lost their homes and, subsequently, their domestic domain. In its interviews, "the Registry notes that the impact of the crimes on the family appears to have particularly affected women, 96% of whom reported some form of continual harm."[66] Women disproportionately advocated for reparations in the form of housing support because it would best suit their socio-economic and cultural situation—which was dually shaped by their identity as women, mothers, domestic workers, and the harms that they suffered. Consequently, the majority of victims consulted almost unanimously

64 *The Prosecutor v. Germain Katanga*, Observations of the victims on the principles and procedures to be applied to reparations, ICC-01/04-01/07-3555-tENG, 15 May 2015: 21-25.
65 ICC-01/04-01/07-3512-Conf-Exp-Anx1: 16, 20.
66 ICC-01/04-01/07-3512-Conf-Exp-Anx1: 20.

wanted individualized reparations.[67]

The potential barriers to implementation that the Court had to consider for both individual and/or collective reparations included ethnic tension escalation and funding. Bogoro is a predominantly Hema village and, due to the colonial organization of land and other economic resources, those who possess land and capital were mostly Hema. This was a serious dilemma because it could mean that the Court was once again seeming to favor the Hema in its reparations programs, when all Congolese people suffered from horrific acts of violence and loss throughout the war. The Legal Representatives of Victims noted that:

> Since in that case the charges were limited to enlisting and conscripting children under the age of 15 into armed forces and using them to participate actively in hostilities, the victims in both cases are primarily from the Hema community. The result is that reparations awarded by the Court in both cases are likely to benefit victims from one side of an ethnic conflict in which both sides perceive that they suffered harm.[68]

"CONSEQUENTLY, WHAT VICTIMS ADVOCATED FOR WAS LARGELY DETERMINED BY THE WAYS IN WHICH THEIR IDENTITY INTERSECTED WITH THE HARM THEY EXPERIENCED."

Already, the Court had taken a risk by delivering collective reparations to former child soldiers in the *Lubanga* case because of the potential perception of ethnic favoritism. The ICC and victims' legal representatives were once again worried that collective reparations could exacerbate ethnic tensions, especially if the Court's second round of reparations in the Congo were given to the same ethnic group as before. Even individualized reparations in this case could be construed as ethnic favoritism because the landowning and ranching class were largely Hema. Therefore, if economic reparations were given out to victims with the purpose of restoring what they lost, then the restoration efforts would be imbalanced since those who occupied a lower socio-economic station prior to the attack would not experience as much material benefit from the reparations program. The ICC was similarly concerned that giving reparations to victims in Bogoro would perpetuate division and conflict between neighboring ethnic and geographic communities—as many other villages were also brutalized throughout the war.[69] Perpetrators of other violent attacks were just not before the Court at the time. The Court must ultimately follow the provisions of the Rome Statute when coming to a decision on reparations, but it must first acknowledge that the perception of favoritism could actually hinder a reconciliatory process, injure victims further, and damage the ICC's legitimacy.

The ICC reparations decision was also affected by funding

67 ICC-01/04-01/07-3555-tENG: 25, 33.
68 ICC-01/04-01/07-3512-Conf-Exp-Anx1: 38.
69 ICC-01/04-01/07-3512-Conf-Exp-Anx1: 38.

availability. In a rigorous evaluation process, the ICC Registry estimated the total value of harm done to all victims using factors such as the value of housing, personal effects, businesses, harvests, livestock, physical harm, and psychological harm. The final estimate equated to $3,752,620.[70] However, as the Court found Germain Katanga to be indigent, there was significant debate over how much he could be considered liable for. Remember, the Court had already established the precedent in the *Lubanga* case that an indigent defendant is still liable, at least partially, for reparations—even if only symbolically. For instance, "the scope of the convicted person's liability, it is recalled, must be proportionate to the harm caused and, *inter alia,* his or her participation in the commission of the crimes of which he or she was found guilty."[71] The ICC Rules of Procedure and Evidence outline that a defendant's financial liability for reparations must be determined based on a consideration of the harm inflicted and the extent to which the defendant inflicted said harm. The Defense argued that Katanga should not be held accountable for the entirety of the harm inflicted, because he was convicted as a co-perpetrator. However, the Chamber ultimately held that neither Katanga's indigence or co-perpetrator status should impede his liability for reparations, and mandated that Germain Katanga be liable for $1,000,000.[72] Unfortunately, this $1,000,000 was still not enough to justify an entirely individualized approach to reparations. The difficulty of identifying and screening eligible victims, as well as locating displaced victims, was too great.[73] The Court, however, knew that a solely collective approach would not be seen as legitimate in the eyes of victims, and hence ordered the creation of collectivized economic programs, alongside a symbolic individual payout of $250 to 297 identified victims.

The Prosecutor v. Bosco Ntaganda

Bosco Ntaganda is the former Deputy Chief of Staff and commander of operations of the FPLC—the UPC's military branch. In 2019, the Trial Chamber convicted him of 13 counts of war crimes and 5 counts of crimes against humanity—a verdict which was confirmed by the Appeals Chamber in March of 2021. At the time the ICC also "awarded collective reparations with individualised components. The modalities of reparations may include measures of restitution, compensation, rehabilitation, and satisfaction, which may incorporate, when appropriate, a symbolic, preventative, or transformative value."[74]

One of the biggest puzzles of this research concerns overlapping victims, and why the Court issued vastly different types of reparations when many of the victims overlapped across cases. The answer can be found in the *Ntaganda* case. Ntaganda was a colleague of Lubanga and both were convicted of conscripting and enlisting child soldiers and using them for armed hostilities for the UPC/FPLC—meaning that many of these children overlapped. The collective service-based reparations

70 ICC-01/04-01/07-3728-tENG: 70-80.
71 ICC-01/04-01/07-3728-tENG: 91.
72 ICC-01/04-01/07-3728-tENG: 83, 91.
73 ICC-01/04-01/07-3512-Conf-Exp-Anx1: 40; *The Prosecutor v. Germain Katanga*, Trust Fund for Victims Observations on Reparations Procedure, ICC-01/04-01/07-3548, 13 May 2015: 18.
74 *Ntaganda*, "Case Information Sheet," 1, 3.

awarded to former child soldiers in the *Lubanga* case is viewed by the Court as a comprehensive approach that benefits all necessary direct and indirect victims. Thus, the ICC felt that these existing programs could be utilized to also serve former child soldiers affected by Ntaganda's crimes:

> It will thus adopt, for the purposes of reparations in this case, the reparation programmes ordered by Trial Chamber II in the Lubanga case, in relation to the overlapping victims and harms of both cases. Accordingly, the reparation programmes implemented in the Lubanga case, which comprehensively repair the harm caused to the overlapping direct and indirect victims of both cases, should be understood to repair the victims' harm on behalf of both, Mr Lubanga and Mr Ntaganda.[75]

It would be illogical for the Court to utilize its incredibly limited resources to rebuild identical programs from the ground up to benefit the same type of victim in the same geographical area. The Trial Chamber instead recognized that in order to best suit victims, it should maintain existing, successful programs established during the *Lubanga* case to serve newly identified victims. This instance is the most prominent example of Court evolution and expansion, as it demonstrates the ICC's changing approach to reparations as it continues to prosecute and convict defendants from the same Situation.

With regard to this decision, some parties had concerns about whether or not Ntaganda would no longer be considered the liable party for reparations if a different defendant's reparations were used. In response, the Chamber clarifies that this new approach to overlapping victims would:

> Under no circumstances, diminishes Mr Ntaganda's liability to repair in full the harm caused to all victims of the crimes for which he was convicted. To the contrary, Mr Lubanga and Mr Ntaganda are jointly and severally liable to repair in full the harm suffered by the overlapping victims and both remain liable to reimburse the funds that the TFV may eventually use to complement the reparation awards for their shared victims.[76]

In trying to come to a decision on this issue, the Court and several interested parties were concerned that using the reparations infrastructure established in the Lubanga case to address overlapping victims would demonstrate to the public that Ntaganda is not responsible for the harm done to his victims. To address this concern, the Court emphasized that the decision was a strategic maximization of limited resources designed to help as many affected direct and indirect victims as possible. The release of Ntaganda from direct financial liability and the utilization of existing reparations infrastructure in no way diminished his responsibility as a perpetrator. The Court must also engage in equitable practices when delivering reparations to victims, and one such equitable practice principle

75 *The Prosecutor v. Bosco Ntaganda*, Reparations Order, ICC-01/04-02/06-2659, 8 March 2021: 80.

76 ICC-01/04-02/06-2659: 80.

is known as "no over-compensation." By continuing to use existing programs for Ntaganda's child soldier victims, the Court was adhering to the no overcompensation principle for former child soldiers in the DRC, who are seen as a larger collective of victims.[77]

It is clear that the crime of conscripting and enlisting child soldiers played a large role in determining the outcome of reparations in the *Ntaganda* case. The same was true for the other crimes he committed, as well as the identity of those specific victims. For instance, Ntaganda was the first defendant from the Situation in the DRC to be convicted of crimes related to sexual violence, including rape and sexual slavery. The nature of these crimes necessitated a different approach to reparations. For instance, due to the high pervasiveness of rape and sexual slavery among the UPC, many women and girls (including those under the age of 15) were impregnated against their will.[78] While these women and girls were rightfully identified as direct victims, their children were not originally going to be considered victims. The OPCV, in particular, became a strong voice advocating that the label of indirect victim should be extended to children born out of rape and sexual slavery.[79] The Chamber, rather than qualifying children born from rape and sexual slavery as indirect victims,

"REPARATIONS ARE MEANT TO LEGITIMIZE VICTIM SUFFERING AND REPAIR HARM. THE PROXIMITY THAT A VICTIM SHARES WITH THEIR INJURY INFLUENCES THE TYPE OF REPARATIONS THEY FIND TO BE THE MOST EFFECTIVE."

"concluded that, in light of the circumstances of the case, children born out of rape and sexual slavery may qualify as direct victims, as the harm they suffered is a direct result of the commission of the crimes of rape and sexual slavery."[80] This shift is notable because it exemplifies that the crimes committed by the defendant and their intersection with victims' identities do, in fact, have a significant impact on the outcome of reparations in ICC cases.

Reparation type legitimacy also had a large role in this case. By

77 ICC-01/04-02/06-2659: 39.

78 *The Prosecutor v. Bosco Ntaganda*, Judgment with public Annexes A, B, and C, ICC-01/04-02/06-2359, 8 July 2019: 180-185.

79 *The Prosecutor v. Bosco Ntaganda*, Office of Public Counsel for Victims (CLR2) Public Redacted Version of the "Final Observations on Reparations of the Common Legal Representative of the Victims of the Attacks" (ICC-01/04-02/062633-Conf), ICC-01/04-02/06-2633-Red, 21 December 2020: 14-16.

80 ICC-01/04-02/06-2659: 45-46.

the time the ICC released its Reparations Order in 2021, almost *twenty years* had passed since Ntaganda's crimes. Consequently, victims were not amiable to non-material or symbolic forms of reparations. The Chamber notes that:

> In reaching this decision it particularly took into account the victims' wish not to be granted any form of memorialisation or other forms of symbolic reparations unless they serve practical purposes, and their wish to receive awards aiming at supporting sustainable and long-term livelihood and well-being, rather than simply addressing their needs on a short-term basis.[81]

Reparations are meant to legitimize victim suffering and repair harm. The proximity that a victim shares with their injury influences the type of reparations they find to be the most effective. Twenty years after the injury, the majority of victims felt that material reparations were the only legitimate form of reparations, as symbolic reparations could not do anything to better the material conditions of their lives. The Court took this feedback into consideration, and determined that a collective approach with individualized components would best fit victims after such a long period of time had passed.

Victim ethnicity and funding were surprisingly not as prominent in this specific case. Victim ethnicity, for instance, was not as much of a challenge for the Court because:

> The Legal Representative expects more former child soldiers to be willing to participate in the reparations proceedings in the present case because Mr Ntaganda is not of Hema ethnicity. Accordingly Hema victims will be more inclined to come forwards which might not have been the case in the Lubanga reparations proceedings.[82]

One of the main causes for ethnic tension in the previous cases had to do with the perpetrator's ethnicity. Bosco Ntaganda is neither Hema nor Lendu/Ngiti. In the *Lubanga* case, Hema children who were former soldiers were shunned by their communities and, as a result, often felt disempowered to identify themselves and claim reparations. In the *Ntaganda* case, however, the Legal Representatives estimated that because there would be a lesser potential for intercommunal repercussions, more former child soldiers would come forward to claim reparations. Funding was likewise not as much of a constraint on reparations. Yes, funding is always a constraint for the TFV—especially for a defendant convicted of 18 total crimes against peace—but victims in this case were not as adamant about receiving individual reparations, and collective reparations are more cost effective. Lastly, Ntaganda, while found indigent, was made liable for $30,000,000—which is significantly more than in previous cases. Hence, the Court was able to fund a wider variety of projects.[83]

81 ICC-01/04-02/06-2659: 8.

82 *The Prosecutor v. Bosco Ntaganda*, Office of Public Counsel for Victims (CLR1) Submissions on Reparations on behalf of the Former Child Soldiers, ICC-01/04-02/06-2474, 28 February 2020: 32.

83 ICC-01/04-02/06-2659: 97.

Conclusion

The Second Congolese War was an incredibly brutal and bloody conflict. The International Criminal Court has done what it can to bring the leading perpetrators of mass crimes to justice and, subsequently, provide victims with reparations. T*he Prosecutor v. Thomas Lubanga Dyilo, The Prosecutor v. Germain Katanga,* and *The Prosecutor v. Bosco Ntaganda*—the Congolese cases in which the ICC has ordered reparations—present us with a puzzle. Each offense took place during the war, specifically between 2002-2003, and in the same district. In two cases, the defendants were members of the same militia and committed some of the same crimes. Nevertheless, the ICC ordered vastly different forms of reparations across these cases. This outcome came about as a result of the interaction between several causal factors: victim identity, victim participation, the crime(s) committed by the defendant, reparation type legitimacy, the Trust Fund for Victims (TFV) and feasibility, and Court evolution. Each of these causes not only contribute to the outcome of reparations, but also reveal the limitations of the ICC's reparations regime—particularly its inability to fully satisfy victims.

The revelations of this research are extremely important because they provide insight into the ways in which international criminal justice practices can be improved. The ICC is still new and extremely different from many of its institutional predecessors, specifically in regard to victim participation and reparations. It is vital that we critically examine how the Court makes its decisions in order to best approach reparations for victims of mass atrocities. Understanding why and how the Court issued different reparations across similar cases in the same Situation can help us to better visualize future ICC decisions. So far, the Court has ordered reparations in two other cases, one in Mali and one in Northern Uganda. Should the Court convict more criminals from these Situations and choose to order reparations, we now have a better insight into that decision making process.

There is still a significant amount of research that can be done on this topic. As a researcher, I was limited in my capacity to examine all relevant Court documents considering their number and length. I also omitted a notable amount of information for the purposes of this specific paper—including but not limited to information regarding women, girls, and sexual crimes. There is so much more regarding these issues that deserve further investigation. Moreover, this research and its implicit findings about the limitations of the ICC prompt us to question whether or not an institution designed for prosecution is the best vehicle to be delivering reparations in the first place. The purpose of reparations is to serve victims and to meet their needs, but it is clear that victims are not getting what they want from the Court. While it is noble for the ICC to try to provide restorative justice to the victims of people it convicts, it might not be the right institution to do so. On the other hand, it may be that the Court is well situated to provide victims with reparations, it just has yet to fully figure it out, for its reparations regime turned ten only this year. These questions warrant greater consideration.

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Traversing Liminal Spaces in International Relations

An Analysis on Transnational Diaspora Communities

The World Health Organization's declaration in March 2020 of the outbreak of COVID-19 as a global pandemic sent the world into lockdown, changing our way of life and how our networks and connections across the globe interact forever.

Introduction

Migration has drastically transformed the world we live in as it has engendered cultural, political, and economic exchanges at unprecedented levels. Despite the increasing presence of diasporas in policymaking, little attention has been paid to the ways in which these communities traverse liminal spaces in international relations. This research deviates from the state-centric approach to the discipline by examining the conditions under which diaspora populations engage more with the home state as opposed to the host state and vice versa.

I posit that diaspora groups adapt to policies to protect the community at-large, regardless of how it affects their relationship with the home/host state. In some cases, diasporas may choose to cooperate with their home/host state, while in others it may be preferable to contest state policy. The logic behind this is that the policies implemented by political leaders appeal to or threaten cultural myths among the diaspora, which

then inform their behavior. In essence, these policies force diasporas to continuously rewrite cultural narratives for the sake of the group's survival.

The practical implications of this research would be of interest to state and non-state actors alike. For the former, it would be useful to understand the behavior of diaspora groups, specifically in identifying effective strategies for mobilization. As such, the state will be able to realize its political goals, both domestically and internationally. As for the latter, it would be beneficial to consider how the diaspora group's values align, or compete, with state actors. In accordance, diaspora communities would be better equipped to organize themselves against impending threats.

For my analysis, I employ process tracing across a set of comparative case-studies with diverse samples. In doing so, I am able to discern the various types of diaspora-state relations and their characteristics. Moreover, I draw on qualitative data for my case-studies, including a range of government documents, news stories, advocacy material, and peer-reviewed articles.

This paper first provides an overview on the most relevant works on diaspora studies. Thereafter, it outlines a theory on diaspora-state relations, describing the causal mechanisms behind this process and potential outcomes. Finally, I explain my research design in further detail as well as the rationale behind my case-selection. The next section presents evidence in the following set of host/home states: United Kingdom/Afghanistan, Canada/Iran, Austria/Turkiye, United States/Israel. It then concludes by discussing trends observed in these case studies and their implications for diaspora-state relations.

Literature Review

Many of the early works on diaspora studies focused on themes relating to identity, community, and culture.[1] In particular, Khachig Tölölyan, an Armenian-American scholar has laid much of the foundation that has informed the current body of literature. Through his work, he defined ethnicity as a constitutive feature of diaspora and concentrated on the population's relationship with its ancestral home.[2] A key assumption underlying Tölölyan's research is that the diaspora's country of origin is the diaspora's "true" or "ideal" home and that the host state, in contrast, is far less consequential.[3] William Safran, another prominent scholar during the early 1990s, further examined cultural memory, myths of the homeland and return as functions of diaspora groups.[4] Robert Cohen followed suit by deconstructing these myths and developing a typology of different kinds of diasporas (i.e. victim, labor, imperial, trade, deterritorial).[5]

Shortly thereafter, there was a significant shift in research where scholars directed their attention to the "making" of diaspora groups and

1 Sharon M. Quinsaat, "Diasporas as Social Movements?," In *Routledge Handbook of Diaspora Studies*, 47.

2 Kachig Tölölyan, "Rethinking Diaspora(s): Stateless Power in the Transnational Moment," *Diaspora: A Journal of Transnational Studies* 5(1), 13.

3 Tölölyan, "Rethinking Diaspora(s): Stateless Power in the Transnational Moment," 13.

4 William Safran, "Diasporas in Modern Societies: Myth of Homeland and Return," *Diaspora: A Journal of Transnational Studies* 1(1), 83.

5 Robin Cohen, *Global Diasporas: An Introduction* (London: Routledge, 1997).

began to view them in terms of social mobilization.[6] In doing so, scholars subverted many of the essentialist notions underpinning diaspora studies and brought into play the agency of non-state actors. This newfound approach gave more room to understand how diasporas behave in relation to the host state. One of the most notable works include *Diaspora and Transnationalism*, which situates the social transformation of diasporas in cross-border interactions.[7] Other important scholars include Sökefeld, who wrote on experiences of migration,[8] and Adamson, who supplemented this with the discourse surrounding shared identity.[9]

Another emerging strand of research examines bilateral relations between the home and host state, or governance more broadly speaking. Alan Gamlen has been a major contributor in the recent wave of research, as he analyzes how sending-states engage with diaspora populations to achieve certain economic or political goals.[10] Gamlen has also explored issues surrounding sovereignty, and more pointedly, whether these practices infringe on the statehood of other countries.[11] Hollifield has followed a similar avenue of research rooted in the realist tradition, investigating how embassies, bilateral treaties, and other diplomatic tools are employed to mobilize diaspora populations.[12]

"IN ESSENCE, THESE POLICIES FORCE DIASPORAS TO CONTINUOUSLY REWRITE CULTURAL NARRATIVES FOR THE SAKE OF THE GROUP'S SURVIVAL."

Most of the current research focuses on the ways in which states reach diaspora populations; however, it fails to address why these groups choose to engage with the state, if they choose to do so at all. My theory will attempt to answer this by bridging the gap between identity-based explanations (i.e. 1990s to early 2000s) and governance-based explanations (i.e. mid-2000s onwards) of diaspora mobilization. More specifically, I will examine how policies enacted by home/state states feed into, or reshape, cultural myths and, by extension, how this informs the behavior of diaspora populations. This differs from common explanations found in the literature, which either overstate the importance of culture or emphasize how the state draws on narratives to mobilize diaspora, without giving much consideration to the diaspora group itself.

6 Quinsaat, "Diasporas as Social Movements," 48.

7 Rainer Bauböck and Thomas Faist, *Diaspora and Transnationalism: Concepts, Theories and Methods* (Amsterdam: Amsterdam University Press), 9-10.

8 Martin Sökefeld, "Mobilizing in Transnational Space: A Social Movement Approach to the Formation of Diaspora," *Global Networks* 6(3).

9 Fiona Adamson, "Constructing the Diaspora: Diaspora Identity Politics and Transnational Social Movements." *Politics From Afar: Transnational Diasporas and Networks.*

10 Maria Konoiva and Gerasimos Tsourapas, "How Do Countries of Origin Engage Migrants and Diasporas? Multiple Actors and Comparative Perspectives," *International Political Science Review*, 313.

11 Konoiva and Tsourapas, "How Do Countries of Origin Engage Migrants and Diasporas? Multiple Actors and Comparative Perspectives," *International Political Science Review*, 313.

12 Konoiva and Tsourapas, "How Do Countries of Origin Engage Migrants and Diasporas? Multiple Actors and Comparative Perspectives," *International Political Science Review*, 313.

Furthermore, it sheds light on the ways in which host states interact with diaspora groups, as they are often depicted as being secondary to the home state. I believe that my theory will provide a more balanced account of diaspora mobilization by capturing the motivations of both state and non-state actors.

Theorizing Diaspora-State Relations

My theory examines the way in which states interact with diaspora populations and how that can explain their varying levels of involvement in international relations. It postulates that diaspora populations adapt to the policies implemented by their home and host states in order to protect the wider community. This may result in the diaspora cooperating with the (home/host) state or may lead to more contentious interactions. My theory rests on the assumption that diaspora communities behave in a way that benefits their self-interests. Moreover, it supposes that diaspora communities are primarily motivated by identity.

The causal mechanism in my research will be the point at which the (home/host) state implements (resistant/receptive) policies. My dependent variable will be measuring the extent to which diaspora populations engage with the (home/host) state, whereas my independent variable will be evaluating states' attitudes towards diaspora groups. The basis of my theory is that the (home/host) state's policies either appeal to or threaten cultural myths among the diaspora, inciting them to work more closely with, or against, the government. The causal mechanism becomes activated when the state is faced with internal pressures. These policies are intended to have a stabilizing effect, protecting the interests of the state.

As part of my theory, I have devised several categories which can explain the relationship between my dependent (i.e. level of diaspora engagement) and independent variables (i.e. attitudes of the state). Firstly, I have designated states as being "receptive" or "resistant" depending on how they engage with diaspora populations. For the purpose of my research, "receptive" refers to states which enact policies in the hopes of positively engaging diaspora populations whilst "resistant" can be understood as states which actively create barriers to interacting with the diaspora, or otherwise have negative relations. In this sense, "receptive" indicates a positive relationship between the variables and "resistant" denotes a negative relationship. These designations can be ascribed to both home states and host states. This results in four possible combinations: (i) resistant host state/resistant home state, (ii) receptive host state/resistant home state, (iii) resistant host state/receptive home state, (iv) receptive host state/receptive home state. I will analyze the outcomes of these combinations to determine how home/host state attitudes affect diaspora populations and the degree to which they engage with the state(s).

In predicting the outcomes of these different combinations, I have developed the following set of hypotheses: (i) if a diaspora population resides in a receptive host state and originates from a resistant home state, then it will be more likely to engage with the host state; (ii) if a diaspora population resides in a resistant host state and originates from a receptive home state, then it will be more likely to engage with the home state; (iii) if both the host state and home state are resistant in nature, then the

diaspora is more likely to become radicalized; (iv) if both the host state and home state are receptive in nature, then the diaspora is less likely to be politically engaged.

Research Design

In conducting my research, I used a comparative case study. It includes diverse cases to study each of the four possible combinations of diaspora-state relations.[13] For my case-selection, I have developed an index to determine which states are resistant and receptive. Each criterion point is worth ± 1. If a country satisfies a criterion point then it receives +1, but if it does not then it receives a -1. Countries must satisfy at least two points to be considered "receptive." Those which receive a score of -1 or lower do not meet most of the criterion points and are thus deemed "resistant." Based on my index, I have decided to include the following cases: (i) United Kingdom/Afghanistan, (ii) Canada/Iran, (iii) Austria/Turkey, (iv) United States/Israel.

Points	Criteria
± 1	*Signaling* Refers to the language used by political elites to communicate with the diaspora, and the messages they are trying to "signal" to the community. For the purposes of my research, a +1 denotes positive messages whereas a -1 indicates negative signals or none at all. Signaling may also be done through actions.
± 1	*Employment* Whether members of the diaspora are integrated into the labor market, or have opportunities for employment. The latter point is geared towards home states since diasporas cannot participate in the labor market.
± 1	*Language* Whether the state has made resources/services accessible in another language to members of the diaspora.

In the first case, the United Kingdom is deemed resistant, as it attempted to send Afghan asylum seekers to Rwanda to make space for Ukrainian refugees, thus receiving a -1 for signaling.[14] Though there are not any statistics available for employment, there have not been any organized initiatives for hiring Afghan nationals,[15] warranting a -1 in the employment category. Despite these pitfalls, the U.K. government has provided resources in Dari for Afghan refugees, earning itself a +1 in the language category. I have given the same designation to Afghanistan (i.e. resistant) because the Taliban has not developed policies in any of these areas, resulting in a score of -3. It should be noted that this is not simply

13 This refers to: (i) resistant host state/resistant home state, (ii) receptive host state/resistant home state, (iii) resistant host state/receptive home state, (iv) receptive host state/receptive home state.

14 Lauren Said-Moorhouse et. al, "Controversial UK Deportation Flight to Rwanda Grounded after All Asylum-Seekers Remove." *CNN,* June 15, 2022, https://www.cnn.com/2022/06/14/uk/rwanda-asylum-flight-uk-intl-gbr/index.html. (December 2022).

15 This was determined after doing a scan of The Migrant Observatory: https://migrationobservatory.ox.ac.uk/.

because the Afghan diaspora is less engaged, as the previous government implemented a program for integrating Afghan returnees into the market.[16]

As for the second case, Canada is deemed receptive because there is a high employability among Iranian immigrants, as per the 1976 Immigration Act.[17] The Canadian government has also expressed public support for the diaspora in times of political crises as in the case with the recent uprising and the downing of flight PS752,[18] thus obtaining a score of +1. There is not much information available on resources/services

"...DIASPORAS WITH RESISTANT HOME STATES AND HOST STATES ARE MORE LIKELY TO ORGANIZE THEMSELVES SINCE THEY LACK THE SUPPORT OF STATE ACTORS."

for Farsi-speakers made available by the government, however, there are courses offered in Farsi across the country as well as Farsi-speaking private service providers. In contrast, Iran does not engage with the diaspora through language-learning programs or employment opportunities. Furthermore, the government sends negative signals to the diaspora by killing dissidents abroad and making it illegal to participate in foreign organizations which are "involved in soft war" with Iran.[19] Therefore, Iran receives an aggregate score of -3, making it resistant.

I chose Austria/Turkiye for my third case-study because there has been a historically large flow of Turkish migrants in Austria who have not been fully integrated into public life. According to the European Centre for the Development of Vocational Training, "[r]efugees were most frequently unemployed: roughly three quarters of Syrians (75%) and almost half of all Afghans (46%) of working age were unemployed in 2015. Turkish immigrants were more than twice as frequently affected by unemployment (slightly less than 20%) as Austrians."[20] Such high rates of unemployment are arguably colored by negative sentiments towards Turkish migrants. In a

16 "Integration of Returnees in the Afghanistan Labour Market," *ILO.* International Labour Office, August 1, 2006, https://www.ilo.org/asia/publications/WCMS_184885/lang--en/index.htm. (December 2022).

17 "Iranian Immigration to Canada Statistics," Immigroup Network. May 10, 2022, https://www.immigroup.com/topics/iranian-immigration-canada-statistics/. (December 2022).

18 "Canada's Response to Ukraine International Airlines Flight 752 Tragedy." Government of Canada, January 6, 2023, https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/response_conflict-reponse_conflits/crisis-crises/flight-vol-ps752.aspx?lang=eng. (December 2022).

19 Mehdi Khalaji, "Iran Intensifying Its Crackdown on Citizens Abroad," The Washington Institute for Near East Policy. November 2, 2018, https://www.washingtoninstitute.org/policy-analysis/iran-intensifying-its-crackdown-citizens-abroad. (November 1, 2022).

20 "Austria: Migrants and the Labour Market," European Centre for the Development of Vocational Training. October 7, 2021, https://www.cedefop.europa.eu/en/news/austria-migrants-and-labour-market. (December 2022).

study published in 2021, Woschitz reveals that Turks are still primarily seen in xenophobic terms based on the language used by politicians, therefore giving the country a score of -1 in the signaling category.[21] Language, as defined in my index, is the only category that Austria scored positively in, as it provides services in Turkish on the government website.[22] Turkiye, on the other hand, is incredibly welcoming towards its diaspora population. The government provides training to members of its diasporas so that they can obtain jobs as religious personnel, and ensures that they speak the Turkish language.[23] It also sends positive signals by using language which conflate "brotherhood" with "citizenship" so that members of the diaspora feel a connection to the home state.[24] Thus, Turkiye is given an aggregate score of +3.

For my last case-study, I am using the United States/Israel, as both countries have positively engaged the Jewish diaspora.[25] In the United States, Jews are employed, at least part time, at the same rate as the rest of Americans, resulting in a score of +1.[26] The government has also expressed support for the state of Israel which counts as a form of signaling.[27] However, there is not widespread use of Hebrew in the public sector. Israel uses signaling to appeal to the diaspora and even offers "birth-right" trips so that members of the diaspora visit the home state. The state has also revived the Hebrew language to unify members of the diaspora, yielding a score of +1 in the language category.[28] It is unclear whether members of the diaspora are given any specific employment opportunities, so Israel is given a score of -1 in this category.

As part of my comparative case-study, I will be using process tracing to identify when my causal mechanism was activated. In other words, I am studying each of these cases before and after (resistance/receptive) policies were implemented. Given that the first case is relatively recent, I have decided to use the 2021 Afghan Resettlement Program as the moment my causal mechanism is triggered. As for Canada/Iran, I will use the 1976 Immigration Act, as it brought in an influx of Iranian immigrants during times of political upheaval in the late 1970s and 1980s. With regards to Austria/Turkiye, I will examine the repeal of the guest

21 Johannes Woschitz, "Attitudes towards Turkish and Turks in Austria: From Guestworkers to 'Quasi-Foreigners' in a Changing Social Landscape," *Languages* 6(1), 58.

22 "Welcome to the Federal Government's Official Information Website on Migration to Austria!," Living and Working in Austria. Government of Austria, https://www.migration.gv.at/en/welcome/?no_cache=1. (December 2022).

23 Benjamin Bruce, "Imams for the Diaspora: The Turkish State's International Theology Programme," *Journal of Ethnic and Migration Studies* 46(6), 1167.

24 Bruce, "Imams for the Diaspora: The Turkish State's International Theology Programme," 1167.

25 It is important to acknowledge that not all members of the Jewish diaspora are in support of the state of Israel and that there are many active anti-Zionist Jewish organizations. However, for the purposes of this paper, I am considering how the majority of the diaspora engages with the host state.

26 Travis Mitchell, "Economics and Well-Being among U.S. Jews," Pew Research Center. October 6, 2022, https://www.pewresearch.org/religion/2021/05/11/economics-and-well-being-among-u-s-jews/. (December 2022).

27 Robert O. Freedman, "Israel and the United States," *Contemporary Israel* (2018): 253-296.

28 William Safran, "Language and nation-building in Israel: Hebrew and its rivals," *Nations and Nationalism* 11(1), 43-63.

worker policy as a historical juncture since the Austrian government subsequently became more stringent with its immigration policy. For the United States/Israel, it is divided by policies that were implemented prior to the Carter Administration and afterwards, as the United States had not always positively signaled its support of Israel to the diaspora

I have created a 2x2 matrix below to help visualize my theory:

		Host State	
		Resistant	Receptive
Home State	Resistant	Case I: United Kingdom / Afghanistan	Case II: Canada / Iran
	Receptive	Case III: Austria / Turkiye	Case IV: United States / Israel

Analysis

Case I: United Kingdom/Afghanistan

With the United States' military withdrawal from Afghanistan, over 670,000 Afghans have been internally displaced and thousands have fled to other countries.[29] In response to the massive outflow of refugees, the U.K. established a resettlement scheme to help those at risk, admitting 5,000 in 2021 and 20,000 in the longer-term.[30] Though this was a display of goodwill, the Labour Party expressed its dissatisfaction with the plan, urging the Johnson government to ensure that Afghan workers arrive through "specific and safe" travel routes.[31] There have also been criticisms that the number of spots available are far too little given the severity of

29 "Afghanistan Situation," Global Focus. United Nations High Commissioner for Refugees, https://reporting.unhcr.org/afghansituation. (November 17, 2022).

30 Philip Loft, "Afghanistan: Refugees and Displaced People in 2021." *House of Commons Library Research Briefing* 16 (2021), 10.

31 Loft, "Afghanistan: Refugees and Displaced People in 2021," 10.

the crisis.[32] It is worth noting that the U.K. government has previously committed to settling "Afghan interpreters and other locally employed civilians."[33] These provisions were arguably more flexible as they relaxed the criteria to gain entry, so that former workers who did not meet the minimum length of employment were now eligible.[34] The government was also more receptive to refugees following the invasion in 2001 as it accepted 9,000 Afghan nationals, serving as a stark contrast to the 2021 policy.[35]

It is curious then that the U.K. was not as quick to admit refugees in 2021, especially when migration channels for Afghan nationals had already been established. In part, this can be attributed to the U.K.'s role in the conflict. In 2001, U.K. forces had accompanied the American troops in "Operation Freedom."[36] Later in 2014, the government formally withdrew its forces but maintained its presence in the region through NATO.[37] Though the U.K. had initially admitted Afghan refugees, the longer the war waned, the more it became subject to criticism. This is corroborated in an article published by LSE, which indicates that public support for intervention declined after having occupied Afghanistan for over a decade.[38] Micinski further expands on this notion when analyzing the United States' policy-response to the refugee crisis. He posits that resettling large numbers of refugees would indicate the government's "moral responsibility" for the displacement of millions of Afghan nationals.[39] If we were to apply the same rationale to the U.K., then it follows suit that, by admitting large quantities of refugees, Brits would be forced to confront the failures of the U.K. government, making it wildly unpopular among officials.

Another factor to consider is the practical implementation of the resettlement scheme and how it coincides with current events. To further elaborate, there is a gap in time between when the program is first introduced and when applications for asylum are accepted.[40] As such, the outcomes of these applications may be different from when they had initially been opened. Hostilities between Ukraine and Russia had notably heightened during this time and the West had grown concerned about the impending conflict. It is critical to note that the reason why the U.K.,

32 Alf Dubs, "Why the UK Government's New Refugee Scheme Is Failing Afghans," New Statesman. August 24, 2021, https://www.newstatesman.com/politics/2021/08/why-uk-governments-new-refugee-schme-failing-afghans. (December 2022).

33 Dubs, "Why the UK Government's New Refugee Scheme Is Failing Afghans."

34 Claire Mills and Melanie Gower, "Resettlement Scheme for Locally Employed Civilians in Afghanistan," *House of Commons Library Research Briefing*, 23.

35 Noel Dempsey, "Afghanistan Statistics: UK Deaths, Casualties, Mission Costs and Refugees," *House of Commons Librar*y, 7.

36 Mills and Gower, "Resettlement Scheme for Locally Employed Civilians in Afghanistan," 4.

37 Mills and Gower, "Resettlement Scheme for Locally Employed Civilians in Afghanistan," 4.

38 "Attitudes towards Iraq and Afghanistan: British Public Opinion after a Decade of War Has Implications for the Viability of Future Missions," London School of Economics and Political Science. January 9, 2015, https://blogs.lse.ac.uk/politicsandpolicy/british-public-opinion-after-a-decade-of-war-attitudes-to-iraq-and-afghanistan/. (December 2022).

39 Nicholas R. Micinski, "Refugee Policy as Foreign Policy: Iraqi and Afghan Refugee Resettlements to the United States," *Refugee Survey Quarterly* 37(3), 267.

40 For reference, the resettlement scheme came into effect in January 2022 (Sturge 2022, 24).

like other Western countries, was so focused on Ukraine was because it related to its foreign policy objectives with NATO.[41] These policies also aligned with public opinion in the U.K., with 6 in 10 people supporting the government's response and only 12% opposing it.[42] To little surprise, when Russia had invaded Ukraine in February 2022, the U.K. became pressed on showing its support to Ukraine, admitting a massive wave of refugees. Sturge remarks that "[this] flow was much larger in scale than any other single forced migration flow to the U.K. in recent history," resettling roughly 146,000 Ukrainians.[43] Conversely, the U.K. did not admit any more Afghans[44] in 2022,[45] despite having projected to admit "7,500 […] in each of the second and third years of the policy" to meet the targets set in the scheme.[46] Ukrainians also had the highest rate of refugees to have a safe path of travel, while Afghans "were among the top nationalities using small boats to reach the [U.K.]."[47]

Unfortunately, there is not much information on the Taliban's approach to the crisis. However, it is clear that the current government is less involved than its predecessor as it has failed to implement any measures for diaspora-engagement. Considering how recent the government takeover was, it is most likely that the Taliban simply does not have the bandwidth or the capacity to pursue such policies.

With regards to the diaspora, the community seems to have taken concerted action to get the government's attention. In an online media screening conducted by USAID and DANIDA, it was revealed that Afghan Diaspora Organizations (ADOs) developed a stronger online presence after the Fall of Kabul when compared to their European counterparts.[48] Furthermore, ADOs shifted their attention away from issues concerning integration, culture, and education to mobilizing resources. In terms of activism, ADOs successfully coordinated protests across the globe with unified messaging alongside groups with whom they did not have previous ties. The report also mentions that "ADOs in North America, Europe, and Australia reported engaging directly with their representatives and policymakers in their countries of residence."[49] ADOs located in the U.K. created online petitions specifically calling

41 Taras Kuzio, "Ukraine and NATO: The Evolving Strategic Partnership." *The Journal of Strategic Studies* 21(2), 2.

42 Gideon Skinner et. al, "Public Continues to Support Britain's Role in Ukraine Conflict," *Institut Public de Sondage d'Opinion Secteur.* October 31, 2022, https://www.ipsos.com/en-uk/public-continues-support-britains-role-ukraine-conflict. (December 8, 2022.)

43 Georgina Sturge, "Asylum Statistics," *House of Commons Library*, 6.

44 Sturge, "Asylum Statistics," 6.

45 This was determined after reviewing the statistics of Afghan nationals admitted through the resettlement scheme. There was no difference in the numbers admitted in 2021 from those in 2022 (Sturge 2022, 24).

46 Peter W. Walsh and Madeleine Sumption, "Afghan Refugees in the UK," Migration Observatory. https://migrationobservatory.ox.ac.uk/resources/commentaries/afghan-refugees-in-the-uk/. (December 8, 2022).

47 Walsh and Sumption, "Afghan Refugees in the UK," Migration Observatory.

48 "Diaspora Engagement Efforts in Afghanistan Real-Time Review," Diaspora Emergency Action & Coordination, 7. December 7, 2021, https://reliefweb.int/report/afghanistan/diaspora-engagement-efforts-afghanistan-real-time-review. (December 2022).

49 "Diaspora Engagement Efforts in Afghanistan Real-Time Review," Diaspora Emergency Action & Coordination, 7.

for the government to evacuate and resettle vulnerable Afghans.[50] The Hazara Committee was also a signatory on a letter to the Home Office's Minister for Refugee Resettlement.[51] The Afghan Community & Welfare Centre in Walsall even established a helpline to assist refugees with any questions about the resettlement scheme.[52] Thus, it is apparent that the Afghan diaspora deferred to the U.K. government for assistance; however, it was done more so out of circumstance, than shared political interests. Moreover, the Afghan community demonstrated a strong ability to mobilize as well as an incredible sense of solidarity. Therefore, it can be argued that diasporas with resistant home states and host states are more likely to organize themselves since they lack the support of state actors. Because those are the institutions at their disposal, it seems that they coordinate with the host state as opposed to the home state.

"BY REORIENTING ITS POLICIES TOWARDS HIGH-SKILLED IMMIGRANTS, AUSTRIA WOULD NOT HAVE TO TAKE IN NEARLY AS MANY IMMIGRANTS, AS MOST TURKISH IMMIGRANTS WORKED IN LOW-SKILLED SECTORS."

Case II: Canada/Iran

Prior to 1976, Canada admitted very few Iranians out of fear that it would lead to "chain migration."[53] This is essentially a process by which migrants bring other family members to the resettled country within several years of their arrival. However, this changed when the government introduced the 1976 Immigration Act which allowed high-skilled immigrants from Iran to move to Canada. From 1981 onwards, the number of Iranians arriving in Canada "increased from hundreds to thousands per year." It should be noted that these policies were originally implemented to stimulate the economy, but were extended to political refugees fleeing Iran. This was not permanent, as the prime motivator for migration to Canada became economically-focused again in the 1990s. Though Canada generally welcomes Iranian immigrants, the government has poor diplomatic relations with the Islamic Regime which has adversely affected migration flows. The most noteworthy examples of this are the implementation of sanctions in 2010 and the closure of Canada's embassy in Tehran two years later.[54]

By contrast, the Islamic Regime adopted a resistant approach to the Iranian diaspora. As mentioned earlier, the government has sent operatives to kill opponents of the regime and has blacklisted certain organizations, effectively preventing members of the diaspora from engaging with these groups.[55] In 1997, General Masoud Jazayeri confirmed

50 Ibid, 41.
51 Ibid, 40.
52 Ibid, 42.
53 "Iranian Immigration to Canada Statistics," Immigroup Network.
54 Ibid.
55 Khalaji, "Iran Intensifying Its Crackdown on Citizens Abroad," The Washington Insti-

these rumors, asserting that the government would "identify [...] dissidents, whether inside or outside the country, and crack down on them at the proper time." He further added that the "[Islamic Republic] can go after the coup supporters even beyond the border…if the [government] sees it as inevitable."[56] These practices have persisted through the decades, as the Islamic Regime has sent death threats to Iranian-Canadians protesting the murder of Mahsa Amini.[57] Based on this, it is clear that the regime's policies are informed by security concerns and attempts to stabilize the country's internal affairs.

In a study on Farsi-language blogs, Alinejad reveals that individuals living in Canada do not feel the same level of bodily threats as those living in Iran.[58] It is fair to assume then that members of the diaspora feel more comfortable voicing their discontent to the host state than the home state. Further evidence suggests that the diaspora identifies more with the host state than the home state because of foreign perception of the regime. Cohen states that, "[the] immigrants, who are obliged to frame their identity in the face of Iran's negative image in the media as a hub of terror and religious radicalism [...], have chosen to cling to their positive image of successful integration in host countries as well-educated entrepreneurs and bearers of a secular culture."[59] However, Malek points out that there is still a strong sense of distrust from Iranian-Canadians towards the host state. She explains that members of the diaspora became concerned that their rights would be diminished in 2014, with the enactment of the Strengthening Canadian Citizenship Act (Bill C-24).[60] In brief, this piece of legislation gave the government the ability to revoke dual citizens of their Canadian citizenship if they committed certain crimes including terrorism, high treason, or fraud. This resulted in a public outcry from the Iranian-Canadian community due to the discriminatory undertones of the bill, leading to protests and comments on social media.[61]

Case III: Austria/Turkiye

In the early 1960s, Austria was faced with a labor shortage and implemented a guest worker program to recruit workers in low-skilled sectors, primarily targeting Turkish and Yugoslav labor migrants.[62] The guest worker program was designed so that workers would return to their home country after their contract had elapsed, meaning that the

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tute for Near East Policy.

56 Ibid.

57 Angela Hennessey and Katie Swyers, "Iranian Dissidents in Canada Say They're Being Watched and under Threat from the Regime in Iran," CBCNews. November 26, 2022. https://www.cbc.ca/news/canada/iranian-canadians-monitoring-iran-1.6664350. (December 2022).

58 Donya Alinejad, "Mapping Homelands Through Virtual Spaces: Transnational Embodiment and Iranian Diaspora Bloggers," *Global Networks* 11(1), 55.

59 Ronen A. Cohen and Bosmat Yefet, "The Iranian Diaspora and the Homeland: Redefining the Role of a Centre," *Journal of Ethnic and Migration Studies* 47(3), 687.

60 Amy Malek, "Paradoxes of Dual Nationality: Geopolitical Constraints on Multiple Citizenship in the Iranian Diaspora," *The Middle East Journal* 73 (4): 545.

61 Malek, "Paradoxes of Dual Nationality: Geopolitical Constraints on Multiple Citizenship in the Iranian Diaspora," 545.

62 Barbara Herzog-Punzenberger, "Ethnic Segmentation in School and Labor Market—40 Year Legacy of Austrian Guestworker Policy 1," *International Migration Review* 37(4), 1124.

government had never intended for these migrants to permanently settle in Austria. Interestingly, the number of Turkish migrants increased after the 1973 oil crisis despite cuts to the program.[63] This can be attributed to the "emerging demand for foreign female workers in Austria, both in the textile industry and in the service sector."[64] Through family reunification schemes, the wives of Turkish migrants would be able to join their husbands in Austria, thereby satisfying the labor demand. However, this meant that there were far more Turkish migrants in Austria than the government had originally anticipated.

By 1990, the number of Turkish migrants had surpassed 99,000, prompting the government to replace the guest worker program with a yearly quota.[65] The government also took additional measures to control migration flows by implementing the country's first comprehensive law on immigration in 1992 as well as the Alien Employment Act, the latter of which placed harsher restrictions on newcomers.[66] Herzog- Punzenberger expounds that these policies invented a "rhetoric of integration" which hardened the attitudes of Austrians towards immigration, while simultaneously preventing non-naturalized residents from accessing welfare. In doing so, it created an internal-contradiction in Austrian policy where Turkish migrants were expected to become more involved in their communities but were unable to do so due to barriers to entry.[67] As second-generation Turks were overrepresented at the lowest level in school while facing higher levels of employment, this had negative long-term effects for the diaspora. In effect, this created a positive feedback loop where second-generation immigrants were prevented from meaningfully participating in Austrian society.[68]

However, this still begs the question as to why the government decided to crackdown on Turkish migrants. Kolbe explains this through the politicization of high-skilled immigration. She contends that there had been "an increasing process of 'parliamentarization' [...] in Austria, [which marginalized] the [influence of social partners] in labor migration policy," noting the exclusion of unions in creating the 1994 labor law.[69] This became further pronounced with the rise of the Freedom Party of Austria (FPÖ): a right-wing populist party which capitalized on public discontent towards the integration of immigrants.[70] Crucially, the FPÖ framed low-skilled immigration as the antithesis to integration and, by extension, associate high-skilled immigrants with integration. It is important to consider the historical context underlying this logic. By reorienting its policies towards high-skilled immigrants, Austria would not have to take in nearly as many immigrants, as most Turkish immigrants worked in low-skilled sectors.

63 Herzog-Punzenberger, "Ethnic Segmentation in School and Labor Market—40 Year Legacy of Austrian Guestworker Policy 1," 1122.
64 Ibid, 1124.
65 Ibid, 1122-1124.
66 Ibid, 1122-1123.
67 Ibid.
68 Ibid, 1140.
69 Melanie Kolbe, "When Politics Trumps Economics: Contrasting High-skilled Immigration Policymaking in Germany and Austria," *International Migration Review* 55(1), 49.
70 Kolbe, "When Politics Trumps Economics: Contrasting High-skilled Immigration Policymaking in Germany and Austria," 49.

Though Kolbe describes this in terms of politicization, it is clear that the drivers for these policies came from internal pressures, namely the FPÖ.

As Austria took a progressively harsher stance on immigration policy, Turkiye became more accepting of its diaspora. The main vessel through which the government did this was the Directorate of Religious Affairs, more commonly known as the Diyanet. During the 1980s, the Turkish government expanded the operations of the directorate abroad with the intentions of "[hindering] political opposition" and maintaining the ethno-national identity of emigrants.[71] Diyanet imams and preachers would provide religious services to Turkish migrants and in some cases even visit Turkish migrants in residential or hospital settings, garnering widespread support from community members. By permeating private spaces, the Diyanet reproduced state norms while emphasizing the government's values of family, Islam, and the homeland.[72] Furthermore, the Turkish government amended its nationality law so that migrants could keep their most important rights, with the exception of political ones (e.g. voting), after giving up their citizenship.[73] These programs were revamped in the early 2000s to professionalize the role of preachers and imams, and expand community outreach.[74]

Turkiye's desire to connect with its diaspora can be traced back to the 1980 coup and, more recently, Davutoğlu's foreign policy of "strategic depth." To provide further context, the government's emphasis on Islam became more prominent with the 1980 coup as it was seen as the "antidote to the spread of Communist ideas."[75] Thereafter, the state began to employ "unofficial" forms of Islam for a stabilizing effect.[76] Once the Justice and Development Party (AKP) took office, Davutoğlu established a foreign policy doctrine which was more cultural and ideological in nature.[77] The logic behind this approach was that Turkey is uniquely positioned at a "geographical crossroads" and should rightfully exert its influence over former Ottoman territories.[78] By tapping into these cultural (and historical) myths, the government was able to appeal to the diaspora while realizing its political agenda. Maritato also notes that these programs help prop up the authoritarian regime by legitimizing the government's strategies of repression.[79]

71 Chiara Maritato, "Pastors of a Dispersed Flock: Diyanet Officers and Turkey's Art of Governing Its Diaspora," *Italian Political Science Review/Rivista Italiana Di Scienza Politica* 51(3), 328.

72 Maritato, "Pastors of a Dispersed Flock: Diyanet Officers and Turkey's Art of Governing Its Diaspora," 322-328.

73 Herzog-Punzenberger, "Ethnic Segmentation in School and Labor Market—40 Year Legacy of Austrian Guestworker Policy 1," 1127.

74 Maritato, "Pastors of a Dispersed Flock: Diyanet Officers and Turkey's Art of Governing Its Diaspora," 326.

75 Benjamin Bruce, "The Many Faces of Official Islam in Turkey," In *Governing Islam Abroad*, 23.

76 Bruce, "The Many Faces of Official Islam in Turkey," 23.

77 Ahmet Erdi Öztürk and İştar Gözaydın, "A Frame for Turkey's Foreign Policy via the Diyanet in the Balkans," *Journal of Muslims in Europe* 7(3): 334.

78 Öztürk and Gözaydın, "A Frame for Turkey's Foreign Policy via the Diyanet in the Balkans," 334.

79 Maritato, "Pastors of a Dispersed Flock: Diyanet Officers and Turkey's Art of Governing Its Diaspora," 325.

It is worth interrogating further how these policies connect to cultural myths, particularly in relation to the family. As Herzog-Punzenberger mentions, the family composition of the Turkish migrants is drastically different from native Austrians, as couples tend to marry younger and produce more children.[80] As such they tend to live in tighter quarters with little room for children to play, resulting in them spending time in the streets.[81] Though this is viewed negatively by Austrians, the family and national identity are strongly correlated for Turks; reenforcing gender roles are seen as a form of morality by the state.[82] Thus, it becomes apparent that challenges in integration presented opportunities for the Turkish government to connect with its diaspora, allowing them to reach its political goals, both domestically and internationally.

" BY TAPPING INTO THESE CULTURAL (AND HISTORICAL) MYTHS, THE GOVERNMENT WAS ABLE TO APPEAL TO THE DIASPORA WHILE REALIZING ITS POLITICAL AGENDA."

Case IV: United States/Israel

Under the Carter Administration, US-Israel relations were characterized by "episodes of discord" and mutual distrust.[83] However, Reagan took a completely different approach towards Israel when he entered office, seeking to strengthen ties between the two countries (ibid).[84] Reagan was particularly motivated over issues relating to military and technological advancements so that Israel could maintain an advantage over its Arab neighbors.[85] This political development in American foreign policy can be understood in terms of the Cold War, as Israel was perceived to be an important player in the United States' ideological battle against socialism.[86] From a strategic standpoint, the Americans thought that Israel could be used to ward off threats in the region, especially as Arab countries (namely Egypt and Syria) inched towards socialism.[87]

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80 Herzog-Punzenberger, "Ethnic Segmentation in School and Labor Market—40 Year Legacy of Austrian Guestworker Policy 1," 1125.

81 Ibid.

82 Maritato, "Pastors of a Dispersed Flock: Diyanet Officers and Turkey's Art of Governing Its Diaspora," 328.

83 Bernard Reich and Shannon Powers, "The United States and Israel: The Nature of a Special Relationship," In *The Middle East and the United States*, 24.

84 Reich and Powers, "The United States and Israel: The Nature of a Special Relationship," 24.

85 Ibid, 225.

86 Ibid, 224.

87 Whether these countries actually drifted towards socialism is debatable, however, the policies implemented by these governments were characterized by higher levels of state-intervention. In the eyes of the United States, this was regarded as socialist; Linda Matar, "Twilight of 'State Capitalism' in Formerly 'Socialist' Arab States." *The Journal of North*

Israel, on the other hand, immediately employed a receptive approach to the diaspora, which can be illustrated by the 1950 Law of Return. According to this piece of legislation, Jews abroad were granted the same status as those residing in Israel.[88] However, the reason for this was because the diaspora was critical to the formation of the home state. In fact, the World Zionist Organization (WZO) explicitly stated that the "age-old vision of the return to its homeland" was made possible "with the assistance of other Jewish circles and bodies, carried the main responsibility for establishing the State of Israel."[89] This suggests that the government needed to populate the country to justify the occupation of Palestine. It is also worth scrutinizing the language used by the WZO, which referred to Jews as "bodies." One way to interpret this is that the WZO was not necessarily concerned with issues pertaining to identity, but rather was more interested in the diaspora because of its political utility in realizing Zionist cultural myths.

Given the unique nature of this case, attention should also be paid to the ways in which the policies of the home state and host state converge. This can best be exemplified with the lobbying of pro-Israel organizations in the United States which, remarkably, reached its peak during Reagan's presidency. Wagner reveals that "[by] 1980, Likud policy was aggressively represented on Capitol Hill by [the American Israel Public Affairs Committee]."[90] Critically, these American interest groups were acting on behalf of Israeli political actors, thereby showing their allegiance to their home state while manipulating policy in the host state. Wagner further notes that Begin ramped up lobbying efforts after his "controversial invasion of Lebanon."[91] It can be seen clearly then that the Israeli government sought out support from the diaspora's host state in order to legitimate the home state's decisions. At the same time, attitudes towards Israel softened in the United States after the Iranian hostage crisis, swinging twenty-million Evangelical voters towards American Zionist organizations.[92] Thus, changes in public opinion, coupled with geopolitical developments in the Middle East, created the propensity for the United States to cooperate with Israel on diaspora policies, despite lending primacy to the home state.

In a study published in 2020, Rebhun et. al found that 81% of American Jews felt a strong sense of belonging with the homeland and nearly half have visited Israel.[93] In comparison, only 22% of American Jews travelled to Israel in 1990, thus showing a steady increase in the diaspora's engagement with the host state.[94] Furthermore, the Jewish

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African Studies 1 (3): 417.

88 Dan Ernst, "The Meaning and Liberal Justifications of Israel's Law of Return," *Israel Law Review* 42(3), 570.

89 Ernst, "The Meaning and Liberal Justifications of Israel's Law of Return," 601.

90 Donald Wagner "Reagan and Begin, Bibi and Jerry: The Theopolitical Alliance of the Likud Party with the American Christian 'Right'," *Arab Studies Quarterly*, 43.

91 Wagner "Reagan and Begin, Bibi and Jerry: The Theopolitical Alliance of the Likud Party with the American Christian 'Right',"43.

92 Ibid.

93 Uzi Rebhun et. al, "Jews in the United States and Israel: A Comparative Look Upon Israel's 70th Anniversary," In *American Jewish Year Book*, 20-21.

94 Rebhun et. al, "Jews in the United States and Israel: A Comparative Look Upon Israel's

demographic in the United States has grown over the past 70 years "due to changes in people's self-identification," suggesting that the home state's appeal to cultural myths have resonated with members of the diaspora.[95] When considering the involvement of the diaspora in Israeli-backed organizations, it becomes evident that American Jews have continuously developed closer ties with the host state.

Conclusion

In my analysis, I observed several interesting trends in diaspora-state relations. Firstly, the adoption of resistant policies by the home state tended to coincide with regime change. As seen with Iran, the government developed more resistant policies with the establishment of the Islamic regime. Similarly, the Taliban did not implement any measures to engage with the diaspora following the Taliban takeover, deviating from the policies set out by its predecessors.

Secondly, host states employed resistant policies when there was an increase in public negative perception. In the first case-study, the U.K. government's policy-response, or more aptly the lack thereof, was correlated with changes in public opinion on the war in Afghanistan as well as growing concerns over Ukraine. In the third case, the Austrian government implemented harsher measures against Turkish migrants due to pressure from the FPÖ. It is also important to note that in both instances where the host state implemented resistant policies, there was a conservative government in power. Perhaps, this can explain the shifts in public opinion which prompt the government to harden their stances against diaspora communities.

Thirdly, receptive policies can be linked to labor shortages. Before the Austrian government had rolled back the guest worker policy, it had welcomed Turkish immigrants to help satisfy labor demands. Once the demands of the market were met, Turkish migrants no longer served a purpose for the government, leading to the implementation of resistant policies. In the same vein, Canada opened its borders to Iranians via the 1976 Immigration Act in search of high-skilled labor.

Fourthly, home states took a receptive approach towards diaspora policy to consolidate power. For Israel, this entailed recruiting the Jewish diaspora to legitimize the establishment of a Zionist homeland. It was also used to justify international ventures such as the invasion of Lebanon. By the same token, Turkiye engaged the diaspora through the Diyanet to help realize the state's foreign policy objectives while also quelling any opposition within its borders.

In my case-study on the United Kingdom/Afghanistan, it was revealed that the diaspora was highly organized and worked more closely with the host state than the home state, despite having different political interests. It can be posited that the diaspora became more active because they had grievances that were not adequately being addressed by either country. Moreover, their preference for the host state was born out of the fact that that was the only form of institutional support that was available

70th Anniversary," 20.

95 Ibid, 31.

to them. This disproves my hypothesis that the diaspora state would be radicalized if both the home state and host state were resistant. As for the case-study on Canada/Iran, it became clear that members of the diaspora interacted more with the host government largely out of fear that they would face repercussions from the home state. This corroborates my hypothesis that diasporic communities with a resistant home state and receptive host state are inclined to work with the latter. In instances where there was a receptive home state and resistant host state, as seen with Austria/Turkiye, the diaspora gave preference to the home state over the host-state, thus confirming my hypothesis. Lastly, my research on the United States/Israel showed that the Jewish diaspora were highly active in both countries, while placing priority on the interests of the home state. This undermines my hypothesis that the diaspora would become less politically involved. As such it can be argued that the diaspora was better mobilized because it had more access to resources.

In each of my case studies, the causal mechanism became activated when there were internal forces at play, most commonly changes in the demands of the market and public opinion. This means that the state would only employ (resistant/receptive) policies when they faced pressure from other political actors. By contrast, there was not as strong of a relationship between diaspora mobilization and cultural myths. When the host state was receptive, the government would clearly appeal to cultural myths to garner support from the diaspora. However, when resistant policies were employed, the government would not appeal to diaspora identity. Instead, their decision-making was far more perfunctory, concerning itself with economic matters or the stability of the regime. In fact, it seems that resistant policies were used to preserve the cultural and/or political imagination of the native population. An example of this can be drawn from the case-study on Austria/Turkiye, where Austrians were worried about there being a change to the culture. Even in the U.K., the government opted for a resistant approach so that it would not have to disturb Anglo conceptions of the war in Afghanistan.

The implications of these findings are manifold. Most obviously, it can be used by states to further develop or improve diaspora policy. Host states with diasporas originating from resistant home states can learn how to introduce measures to build trust and increase cooperation. Conversely, host states with diaspora originating from receptive home states may find ways to appeal to the identity of diaspora groups to encourage participation. Additionally, it can influence bilateral relations between the home state and host state. If the policies of the home and host state are at odds, then the government may want to prevent the diaspora from engaging with the other one. If they are in harmony, then it may strengthen diplomatic relations between the two countries. Furthermore, some of the mobilization strategies employed by home state governments infringe on the sovereignty of the host state. This brings into question what kind of limitations there should be on domestic policies pertaining to diaspora mobilization. Arguably, the most important implication of all is for members of diaspora communities. As shown through my research, governments mainly interact with diasporas to achieve their own political agendas. In doing so, these communities become important fixtures in

maintaining political regimes. It is crucial that diaspora communities ask themselves how these interactions align with, or contradict, their values and organize themselves accordingly.

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Implications of the 1916 Easter Rising

An Analysis of Irish Nationalism as an Ordering Factor of International and Intranational Relations

> "Agus gurab as an uaigh so agus as na huaghannaibh atá inar dtimcheall éireochas saoirse Ghaedheal"; And that from this grave and from the graves which surround us is the eloquence of the freedom of the Gaels. - Patrick Pearse

Introductory Note[1]

In a matter of months, Ireland will erupt into the 106th commemoration of a six-day massacre of its people. By all accounts a failure, the world watched the Easter Rising unfold into a mass execution of rebel leaders and the devastation of Dublin, yet the Irish people came out of the revolution emboldened with nationalistic fervor and a penchant for independence. The following paper will explore the case study of the 1916 Easter Rising through the lens of Irish nationalism and with recognition of the ongoing Great War. It will argue that the rebellion transformed

1 Pearse, Patrick. "Graveside Oration at the Funeral of Jeremiah O'Donovan Rossa" (August 1915).

existing Anglo-Irish and intra-Irish tensions into a distinct nationalistic spirit that directly accelerated freedom movements both inside and outside the nation and gave rise to the partitioning and current status of Ireland and Northern Ireland. This paper will account for the rise of Irish nationalism with reference to Benedict Anderson's *Imagined Communities.* It affords particular engagement to his approach that nationalism ought "to be understood, by aligning it not with self-consciously held political ideologies, but with large cultural systems that preceded it, out of which — as well as against which — it came into being."[2] It will further entertain Anderson's notion of the nation as "an imagined political community" with respect to Irish nation-building both predating and following the Easter Rising.[3] This will allow greater demonstration of the Rising as a catalyst to existing Irish nationalism through the subsequent War of Independence, partition of Ireland, and symbolic Easter 1949 declaration of official Irish independence. Exploration of the growth of Irish nationalism as an ordering factor of international relations will be conducted with deference to the partition of Ireland as a template for the later Palestinian and Indian partitions and as a reference for future global interventions. The Easter Rising will be additionally argued to have undermined English power and facilitated the collapse of the British hegemony.

A Critique of Methodological Solipsism in Observation of Pre-Easter Rising Intra-Irish and Anglo-Irish Divisions

Tensions in Ireland long predated the Easter Rising, and a recognition of the ethno-cultural and religious divisions is essential to understanding the existence and evolution of Irish nationalism.[4] To accurately explain the emergence of the stimulated Irish republicanism involved in and following the Easter Rising it is necessary to understand the evolution of pre-existing nationalisms. In a compelling analysis on the historiography of Irish ideology, Northern Irish historian Richard English provides insight to the preeminence of "methodological solipsism" in historical scholarship on the subject.[5] To concur with this view, the evolution and existence of nationalism may only be understood with regard to the existing intricacies of religious and factional tensions within Ireland: intricacies which, regrettably, can be merely touched upon in this writing. The existence of Protestantism, Catholicism, and Anglicism can be argued to have formulated the cores of competing Irish nationalisms. The later partition of Northern Ireland and the Republic of Ireland allows reflection on the true scale of this separatory sentiment between Anglo-favoring Protestants and traditionally Celtic Catholics.[6] More so, the later "Troubles" of Northern Ireland would see the Irish Republican Army plague the community with acts of terrorism for years to come and force

2 Anderson, Benedict. "Imagined Communities: Reflections on the Origin and Spread of Nationalism" *Verso* (1983), p 12.

3 Ibid., p 16.

4 English, Richard. "History and Irish Nationalism." *Irish Historical Studies* 37, no. 147 (2011): 447–60.

5 Ibid., pp 458-60; "University of Alberta Dictionary of Cognitive Science: Methodological Solipsism."

6 Weaver, Stewart. "100 Years on: The Partition of Ireland Explained Why Was Ireland Divided?" (2021).

English intervention.[7] Thus, prior to the Easter Rising, there arguably existed a plurality of strong nationalistic sentiments, however, these nationalisms lacked substantial progression due to overarching disunity.

In addition to intra-Irish tensions, the Easter Rising and Irish nationalism must be placed in the context of political conflict between Britain and Ireland. The geographical and political intertwinement of the nations has long made up the Anglo-Celtic battleground.[8] In addition to the aforementioned religious underpinnings, Irish Republicanism grew out of the desire for political freedom and autonomy from the British regime. "The Fenians"—The Irish Republican Brotherhood formed in 1858—represented an apt touchstone of the nature of growing Irish resistance to British ruling at the time: secret.[9] The Fenians worked as a covert governing order of their desired Irish Republic and provided the framework and leadership for the failed 1916 Easter Rising. The 1905 birth of the political group Sinn Féin (Gaelic for "We Ourselves") and growth of the Irish Volunteers and Irish Citizen Army would go on to represent more violent revolutionary roots of Irish Republicanism and the nationalist movement; however, prior to the Rising, the movement garnered little public interest. It was not until the execution of revolutionary leadership that extreme Republican nationalism took hold in Ireland on a political and public scale.[10] It was the increasingly violent, though small in nature, clashes between England and Ireland which prompted the government to pass the 1911 "Home Rule Bill", named *the Government of Ireland Act 1914*, which scheduled Irish autonomy under British control.[11] Reactions in Ireland varied as the Northern Irish Ulster region, predominantly unionist, violently rejected the notion: a sentiment which was met with celebration by Irish republicans.[12] The outbreak of the First World War soon curbed this bill's implementation with an immediate 12-month suspension and effectively shattered hopes for a peaceful transition.

"IRISH NATIONALISTS RECOGNIZED THAT THE ALREADY RELATIVELY SCARCE ROOTS OF IRISH CULTURE WOULD CONTINUE TO GROW SCARCER UNDER ENGLISH POLICY AND THE LACK OF IRISH MOBILIZATION."

The arrival and onset of WWI in 1914 interrupted the heightening Anglo-Irish conflict and diverted English attention from its inner turmoil. Within Ireland, divisions sharpened between the Ulster

7 World Bank. "The 'Troubles' of Northern Ireland: Understanding Civil War" (2005).

8 "Languages and Religions of the U.K. and Ireland." *National Geographic* (2012); "Ireland and Britain: 800 Years of Conflict" (30 Jan 2016).

9 History Ireland. "The Irish Republican Brotherhood" (March 8, 2013).

10 Mac Manus, Seumas. "Sinn Féin." *The North American Review* Vol. 185, no. No. 621 (August 16, 1907): 825-36; Cowell-Meyers, K. and Arthur, Paul. "Sinn Féin." *Encyclopedia Britannica* (January 26, 2021).

11 Britannica, T. Editors of Encyclopedia. "Home Rule." *Encyclopedia Britannica* (September 15, 2010); UK Parliament. "Government of Ireland Act 1914" (September 18, 1914).

12 Leeson, D.M. "Post-War Conflict (Great Britain and Ireland)." In *International Encyclopedia of the First World War* (January 27, 2016).

unionists and within the Irish nationalist parties—a precursor to the post-war partition.[13] While the war saw a tentative truce in the face of larger scale conflict, it also acted to embolden radical Irish nationalists in their pursuit of political liberty as they began to seek aid from the enemies of Britain and international Irish populations. Damning correspondence from British public servant Sir Roger Casement to Germany lends itself to the strength of the nationalist spirit. "May it be found when German Science begins its great voyage for the freeing of the seas that the Irish Diodon was indeed the wrong fish for the World Shark to swallow."[14] Casement would soon be executed for treason to the British state and become widely regarded as a true martyr of the Irish cause. The wit of his analogy in reference to the seas, the known source of British prowess, as a jab against the English regime should not be overlooked. However, while compelling in spirit, Casement and the nationalist cause received little help from Germany. Rather, the cause saw, arguably, its greatest international ally in Irish nationalists of the United States.[15] Propagandic posters depicted the Fenian brotherhood with clovered American flags and a secret Irish society of Philadelphia, *Clan na Gael*, went so far as to meet with German diplomats for the negotiation of arms: which were to be lost at sea upon their sending.[16] Irish allies in the United States provided monetary aid but failed to send additional arms. Regardless, the Irish nationalist cause was quickly moving into the international scene. By Easter 1916, nationalists saw their opportunity for insurrection and in the famed *Proclamation of the Republic* thanked their "exiled children in America and gallant allies in Europe" for their faithful support.[17]

British Reaction to the Easter Rising: The True Catalyst to Irish Nationalism

Monday, April 24th to Saturday, April 29th the aforementioned Irish nationalists overtake Dublin, proclaiming an Irish Republic for six days before a rapid and bloody defeat. Planning miscalculations and little public support for the insurrection resulted in its utter failure.[18] But it was the British reaction and brutal repression of the Rising which mobilized the Irish public and catalyzed Ireland into a state of unity. Following the defeat of the rebellion, British command moved through a series of secret trials to immediately execute [19] News of the leaders' deaths, particularly Connolly, incited public revulsion. The murdered leaders were hailed as martyrs and the Irish cause for independence finally gained national traction.

To engage with Anderson, Irish nationalism grew "from the large cultural systems that preceded it, out of which — as well as against which

13 Leeson, D.M. "Post-War Conflict (Great Britain and Ireland)."
14 Casement, Sir Roger. "Ireland, Germany, and Europe" (1911).
15 BBC News. "Easter Rising 1916: How an Irish Rebellion Sought International Help," *sec. Northern Ireland* (March 24, 2016).
16 Ibid.
17 Pearse, Patrick. "Proclamation of the Republic" (April 24, 1916).
18 Britannica, T. Editors of Encyclopedia. "Easter Rising." *Encyclopedia Britannica* (November 30, 2021).
19 Ginnell and Tennant. "Execution of James Connolly" (May 30, 1916).

— it came into being."[20] It was the sheer strength of emotion actualized through the Easter Rising that acted as the catalyst to the nationalist movement. With regard to the Irish cause, the competition between traditional Gaelic culture and forced Anglicism worked to advance the case for Irish republicanism, albeit slowly. Prior to the Easter Rising, revolutionaries had lacked the public support necessary to incite change. However, by the time public approval had finally been garnered following the Rising, it was the subliminal, long-term growth of this animosity which acted as the backbone of the rebellion. While the triumph of nationalistic spirit was saved until the events following the Easter Rising, the centuries long grating of Gaelic and English vernaculars, society, and religions grew the foundation for the nationalist movement. Notably, under the 35 years of Irish Home Rule Party leadership, the "Gaelic speakers decreased by a third of a million."[21] Irish nationalists recognized that the already relatively scarce roots of Irish culture would continue to grow scarcer under English policy and the lack of Irish mobilization.

Anderson's proposal that nationalism ought to be regarded as an "imagined community" can also be understood in a theological context.[22] The religious symbolism of the Rising allowed for widespread sympathy towards Republican leaders and their martyrdom. Anderson's notion of the religious community is aptly shown in his depiction of religious thought as a precursor to nationalism which explores "the element of fatality [as] essential."[23] The competing nationalisms and factions of Ireland notably share the Christian faith. Though practiced in different manners and under different rules, the Catholic and Protestant faiths share the celebration of Easter and frown upon murderous intent.[24] Anderson's perspective provides an explanation for the strength of the emotional response to British cruelty and the martyrdom of the nationalist movement. It was the crucial placement of the Rising on Easter Monday which related the deaths of Republican leadership to that of Christ. Through this symbolism the religious community's beliefs became connotatively associated with, and integrated into, the nationalist movement. Irish historian Ó hAdhmaill concurs with Anderson's perception of fatality and notes the aftermath of the Easter Rising as a religious incendiary for the public that set the stage for the following political overtake.[25] It was this ideological component that created the unity necessary for the coming Irish revolution as the Great War entered its close.

Ireland as an International Template for Partition and Detractor of British Hegemony

The Easter Rising induced a transformation of public opinion toward the Republican cause, inciting almost immediate political action.

20 Ibid., p 12.

21 Mac Manus, Seumas. "Sinn Féin." *The North American Review*, Vol. 185, no. No. 621 (August 16, 1907): 825-36.

22 Anderson, Benedict. "Imagined Communities," p 16.

23 Ibid., p 44.

24 "Ten Commandments." In *A Dictionary of the Bible*, edited by W. R. F. Browning, *Oxford Biblical Studies Online.*

25 Ó hAdhmaill, Féilim. "The Easter Rising (1916) in Ireland and Its Historical Context: The Campaign for an Irish Democracy." ResearchGate (2019).

In the 1918 election, Sinn Féin won majority seats in parliament with strong public backing; and by 1919, the Irish War of Independence had begun. The resolution of the conflict saw the British partitioning of Northern Ireland and Southern Ireland under the *Anglo-Irish Treaty of December 1921*.[26] The newly appointed Northern Ireland (notably the Ulster region) would remain a part of the United Kingdom while the now self-governing Irish Free State would be associated only as a dominion of the British Commonwealth.[27] A continuation and forced resolution to the long standing religious divides between the Protestants and Catholics. The partition brought about Civil War in the Irish Free.[28] On the international scale, however, the partition was to be replicated as a template of conflict resolution in the post-WWI era. Markedly, the almost simultaneous partitioning of India and Palestine by Great Britain in 1947. In Dubnov and Robson's *Partitions: A Transnational History of Twentieth-Century Territorial Separatism*, it is noted that partition "led not to the stabilization of conflict but to… long-term geopolitical deferral".[29] This was reflected in the actual geographical border between Northern Ireland and the Irish Free State not being established until 1925. The destabilization of Ireland was largely ignored after the signing of the 1921 treaty and it became internationally viewed as a British success; however, this is not to diminish the injury to British hegemony that Ireland inflamed by proving English ineptitude within its island territory. In response to this perceived success,

"THE PARTITION BROUGHT ABOUT CIVIL WAR IN THE IRISH FREE. ON THE INTERNATIONAL SCALE, HOWEVER, THE PARTITION WAS TO BE REPLICATED AS A TEMPLATE OF CONFLICT RESOLUTION IN THE POST-WWI ERA."

Britain moved to follow this model in the proposed partition of Palestine in 1937 and the later "actual" 1947 partition by the United Nations.[30] The division shared with the Irish, chronological commonalities of ongoing international and intranational conflict. And, like Ireland, Palestine had long been plagued by ethnic and religious demarcations. While there had

26 Mulhall, Ambassador Daniel. "The Anglo-Irish Treaty of December 1921." Department of Foreign Affairs (December 6, 2021) ; "Irish Free State." In *Wikipedia*, (March 11, 2022). ; Britain, and Ireland. "The Anglo-Irish Treaty, 1921" (December 6, 1921).

27 Editors, History com. "Easter Rising." *HISTORY* (January 25, 2019).

28 Reeves, Chris. "'Let Us Stand by Our Friends': British Policy Towards Ireland, 1949-59." *Irish Studies in International Affairs* 11 (2000): 85–102.

29 Dubnov, Arie M, and Laura Robson. Partitions: *A Transnational History of Twentieth-Century Territorial Separatism*. Redwood City: *Stanford University Press* (2019), p 6.

30 Ibid., p 7.

existed this component, it was the tremendous displacement of the Jewish community following WWII that exacerbated the Arab-Jewish conflict to the point of what the United Nations deemed necessary intervention. The nationalistic revival of the Zionist community had been steadily growing for decades, but it was the Jewish decimation of WWII which seemed to represent the final push.[31] Examination of *Resolution 181 (II)* by the United Nations, sees an acknowledgement that the resolution calls for the removal of the British presence "with plans to complete its evacuation of Palestine" from the partitioned states.[32] This represents the diminishing power of the United Kingdom which echoes that of the *Anglo-Irish Treaty of December 1921*, where "for the first time in an official UK document, the term 'Commonwealth' was used as an alternative to 'Empire.'"[33]

The case of the Indian partition furthers reflection on the Irish template. As within Ireland and Palestine, clear religious divisions plagued the nation: Hinduism and Islamism. Returning to Dubnov and Robson's analysis, the violence of rebellions in partitioned India set an example for future bloodshed.[34] Currently, both India and its partition, Pakistan, hold nuclear weapons, and the violence of the partition stokes the fear of nuclear retaliation between the two.[35] This can be related to the post-partition Irish Civil War, the "Troubles" of Northern Ireland, and the terrorism of the IRA and to the ongoing battles between Palestine and Israel. In fact, analysis of the Irish, Palestinian, and Indian conflicts sees ongoing effects on the divided nationalisms of the respective states and can be regarded as influential on their current policies. Reference to the partitions as "tragedies" is an apt representation of the perpetual effects of partition on nationalistic sentiments and state behavior.[36]

What Constitutes a Revolution?

It cannot be denied that the effects of the Easter Rising continue to dominate global politics. It is, therefore, with mixed emotions that the Irish example is to be regarded in its ordering of the international. Ireland's intranational climate allowed for the growth of nationalism through cultural distinctions and opposition to English rule, but it was the violence of repression which unified Irish nationalisms into a force for independence that directly caused the partition of Ireland and subsequent wars. Anderson's thesis and notes on culture are recognized to be thoroughly demonstrated in analysis of this study. This does not suggest agreement with all parts of Anderson's novel, but rather a nod to his emphasis on religious and cultural movements in creating the "imagined community" of the Irish nation.[37]

A focus on the direct impact of the expression of Irish nationalism

31 Shwadran, Benjamin. "The Emergence of the State of Israel." *The Journal of Educational Sociology* 22, no. 3 (1948).

32 General Assembly, United Nations. "Resolution Adopted on the Report of the AD HOC Committee on the Palestinian Question" (November 29, 1947).

33 Britain, and Ireland. "The Anglo-Irish Treaty, 1921" (December 6, 1921).

34 Dubnov, Arie M, and Laura Robson. "Partitions: A Transnational History," pp 14-16.

35 Toon, Owen B., et al."Rapidly expanding nuclear arsenals in Pakistan and India portend regional and global catastrophe." *ScienceAdvances* (October 2, 2019).

36 Dubnov, Arie M, and Laura Robson. "Partitions: A Transnational History," p 27.

37 Anderson, Benedict. "Imagined Communities," p 13.

in the Easter Rising saw the involvement of the international community and the ordering of international relations. Sympathy from Germany and the United States saw Irish expatriates gain public traction and the undermining of British rule as members of these nations moved against the empire. The partitioning of Ireland would also form the British template for the partitions of, most notably, Palestine and India. While British intervention was certainly not a novel occurrence, the practice of partition was only popularized following that of Ireland, which was widely viewed as a success. The Irish nationalism of the Easter Rising continues to have a robust impact in both Ireland and the international community; to be remembered as an endeavor which will assuredly perpetuate for years to come.

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