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Climate Change and the Moral Responsibility to Reform International Law

Jeremy Wiener

As the consequences of human-induced climate change become increasingly present and pervasive, so too must discussions concerning intergenerational justice and the fundamental principles of international law which it underpins. This paper explores the interrelatedness of these, discussing natural and human rights in relation to John Rawls' "original position" demonstrating that, contrary to what the person-affecting principle may lead us to believe, current generations have certain primordial duties towards future ones, namely the duty to preserve a planet necessary for the maintenance of fundamental human rights and, in the situation that this duty has not been fulfilled or worse, to repair the harm caused by this failure. Contemporary international law, however, institutionalizes legal responsibilities that are much less onerous than the latter of these aforementioned moral imperatives. To close this gap and cement our moral obligations in legal grounding, the Convention Relating to the Status of Refugees, the outdated yet seminal institution of international law that concerns the right of refugees, which sets forth only political and individualist definitions of the term, must be supplemented with environmental and collectivist dimensions.

Introduction

Rising temperatures, widespread tropical diseases, changing patterns of precipitation, more frequent droughts, heatwaves, tropical storms, forest fires, and rising sea levels: these are the consequences of climate change which will render large swaths of the earth's territory inhospitable. Ironically, those living today will not experience the most destructive effects of human-induced climate change. Sea levels take a very long time to respond to the warming of the earth's surface, meaning that ocean waters will continue to rise for many centuries even if global temperatures do not reach two degrees Celsius above pre-industrial levels, the level of global temperatures that scientists agree would lead to disastrous consequences. It is inevitable that climate change, which is predominantly if not entirely human-induced, will adversely affect future generations for centuries to come. From a perspective of intergenerational justice, this is morally egregious, for living generations have a responsibility to do their fair share in achieving the conditions necessary for preserving future generations' fundamental human rights. Since the

generations of humanity's past have failed to fulfill this duty, those that have inherited the benefits of this failure have also inherited the responsibility to repair the harm generated by it. In theory, such reparations entail transferring some of the material benefits of pollution onto the peoples experiencing the costs of their actions; in practice, it necessitates helping people adversely affected adapt to a changing environment by taking measures such as helping states internally resettle their populations and, when necessary, externally resettling and naturalizing them in their own countries.

Regarding the latter, however, the seminal Convention Relating to the Status of Refugees puts forward only a political and individualistic definition of refugee, meaning states have no legal responsibility to resettle those forced to migrate due to climate change, as intergenerational justice requires. To overcome this and cement our moral obligations in legal grounding, international law must be reformed in such a way that broadens the political and individualistic definition of refugee to include environmental and collective dimensions. Further, since many climate refugees will lose the political rights they were once entitled to as nationals of their respective countries, states responsible for turning these once-nationals into climate refugees have a duty to help restore their rights by naturalizing them in the country they have migrated to. To demonstrate the aforementioned, natural and human rights will be discussed in relation to John Rawls' "original position", intergenerational justice, and Derek Parfit's non-identity problem. Next, states' legal and moral responsibilities will be juxtaposed highlighting the need to reform the components of international law that relate to the definition and rights of refugees.

The Relationship Between Human Rights and Intergenerational Duties

Natural Rights and Human Rights

The notion of rights first entered society independent of human-created laws. These *natural rights* were derived from the moral standards that govern the rational nature of human beings.¹ Hence, natural rights stem from the fundamental interests that all rational humans have, such as the interest in preserving one's life or the conditions necessary to maintain it. For natural law theorists such as Thomas Aquinas, and more contemporary rights theorists such as Joseph Raz, rights and interests generate duties to not violate said rights.² For example, the right to life begets

¹ Thomas Aquinas, *On Law, Morality and Politics*, 18-21.

² Joseph Raz, "The Nature of Rights," in *The Morality of Freedom*, 165-192.

a duty to not take away someone's life, to prevent others from taking away someone's life, and to assist others in securing their life – the latter being most relevant to a discussion of climate-induced migration. Ultimately, by virtue of them being derived from inalienable human interests, natural rights and the duties they bestow are the most fundamental of rights and duties.

It is thus not surprising that natural rights were institutionalized by international law. The non-binding Universal Declaration of Human Rights enshrined everyone's right to life, liberty and security of the person, while the Protocols to the International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights rendered it binding. Such rights include, but are not limited to: the right to life and that which ensures its preservation, including the right to clean drinking-water and the right to adequate food, the former being implicitly recognized by international law while the latter being explicitly recognized in the International Covenant on Economic, Social and Cultural Rights;³ the right to an adequate living standard;⁴ the right to adequate housing;⁵ and the right to a nationality.⁶ **Human Rights and Intergenerational Duties**

However, just because current generations have inalienable human rights does not necessarily mean that they have a duty to create the conditions – hereafter referred to as '*E*' – necessary for upholding future generations' most fundamental of human rights. This idea, that living generations may have no duties towards future generations, is an extension of person-affecting principle, which posits that an act can be wrong only if it makes things worse off, or harms, some existing or future person; because different individuals would exist in the distant future if different actions were taken in the present, i.e., if *E* was versus was not adopted, not adopting *E* cannot be said to be an injustice, according to the person-affecting principle.

But surely this cannot be plausible. Moral intuition insists that a world where *E* was not adopted – a world without the conditions necessary for upholding future generations' most fundamental rights – is worse than a world where *E* was adopted, despite what the person-affecting principle may lead us to believe. How, then, to prevent voiding current generations of the duties they have towards future ones and overcome what Derek Parfit termed the non-identity problem?⁷

³ International Covenant on Economic, Social and Cultural Rights, art 11.

⁴ *Ibid*, art 11.2(b).

⁵ *Ibid*, art 11.1.

⁶ Universal Declaration of Human Rights, art 15.

⁷ Derek Parfit, "The Non-Identity Problem," in *Reasons and Persons*, 351-80.

The solution: instead of thinking of duties towards future generations as ordinary duties, which are inherently different given that the former are not duties towards particular persons as the latter, we must imagine ourselves in an “original position” under a “veil of ignorance” wherein we are denied information about what race, class, gender or generation we are to be born into so that we, mutually disinterested parties, can choose the just principles that are to govern human civilization through each stage of its advancement.⁸ In other words, not knowing what generation we are to belong, we must ask ourselves how much we would be willing to save for the succeeding generation assuming that all other generations are to save at the same rate, a form of symmetry and reciprocity that prevents weighing nearer generations more heavily than farther ones.⁹ The just principles that will necessarily be chosen, reasons Rawls, are those that require each generation to do “its fair share” in achieving conditions necessary to uphold and further just institutions, such institutions being necessary to preserve a minimal level of fundamental human rights.¹⁰ More specifically, intergenerational justice demands that generations adopt *E*.

The Undermined Duty

However, tragically, *E* has and is not being adopted. The consequences of climate change make this clear. Rising global temperatures is increasing the prevalence of “natural” disasters such as hurricanes, tropical storms, forest fires, floods, droughts and heatwaves, unpredictable precipitation patterns and, most importantly, sea level rise. All of these have and will continue to undermine people’s human rights at an increasingly prevalent rate.

The Middle East and Northern Africa region (MENA), for example, will warm significantly more than the rest of the planet. By 2050, MENA summer temperatures are expected to stay above 30°C at night and hover around 46°C during the day, and by the end of the century, midday summer temperatures are expected to exceed 50°C.¹¹ Such extreme heat, coupled with prolonged heatwaves, excruciatingly long droughts and windblown desert dust will undermine people’s right to food, water, and an adequate standard of living while causing many to die prematurely given the clear link between high temperatures and cardiovascular mortality.¹²

⁸ John Rawls, *A Theory of Justice*, 287.

⁹ *Ibid*, 289-94.

¹⁰ *Ibid*, 298.

¹¹ J. Lelieveld, et al., “Strongly Increasing Heat Extremes in the Middle East and North Africa (MENA) in the 21st Century,” *Climatic Change*: 245-260.

¹² M. Lubczyńska, et al., “Heart-Related Cardiovascular Mortality Risk in Cyprus: A Case-Crossover Study Using a Distributed Lag Non-Linear Model,” *Environmental Health*: 14-39.

In other parts of the world, rising sea levels threaten to contaminate people's drinking water and submerge their lands rendering subsistence increasingly difficult, if not impossible. Such is already happening in Bangladesh, the first large, densely populated, low-lying country beginning to feel the brunt of Mother Nature's wrath. Bangladeshis have lived through deadly hurricanes and have seen routine flooding leave behind salt deposits that render formerly fertile land barren.¹³ In a country with nearly a quarter of its land mass less than seven feet above sea level, even conservative estimates threaten to radically transform Bangladesh's borders. If sea levels rise as scientists expect, by 2050 as many as 50 million Bangladeshis will have to find new homes.¹⁴

For those living in low-lying island states such as the Maldives or the Marshall Islands, rising sea levels threaten to completely submerge their territory. Not only would this make it impossible for low-lying island states to guarantee even the most basic rights to their citizens, but given that one of the core definitions of a state set out by the Montevideo Convention is a defined territory,¹⁵ climate change may render certain states essentially extinct thereby casting the citizens of these former states into the realm of absolute statelessness.

Since climate change evidently and undoubtedly has the potential to undermine people's most fundamental human rights in such a way that humanity has yet to experience, *E* is defined as what mitigates climate change, i.e., ceasing to emit GHG by transitioning away from fossil fuels to non-pollutant renewable energy. Accordingly, doing so is the duty of current and future generations. But, given that the earth has already warmed by 1°C above pre-industrial levels and will likely reach 1.5°C within the next 20 years, according to the UN Intergovernmental Panel on Climate Change, and given that sea levels take a long time to respond to the warming of the earth's surface, the failure to adopt *E* has rendered the undermining of future generations' fundamental human rights inevitable.¹⁶

Determining Culpability

Because rights bestow duties onto others, and because the actions of humanity's past – and the inactions of our present – relatively guarantee our collective failure to uphold our duty and

¹³ Gardiner Harris, "Borrowed Time on Disappearing Land," *The New York Times*, 28 March 2014, <https://www.nytimes.com/2014/03/29/world/asia/facing-rising-seas-bangladesh-confronts-the-consequences-of-climate-change.html>.

¹⁴ *Ibid.*

¹⁵ Montevideo Convention on the Rights and Duties of States, art 1(b).

¹⁶ M.R. Allen et al., "Framing and Context," in *Global Warming of 1.5°C*, 51-52.

adopt *E*, reparations are owed. In determining who or what owes reparations to those whose fundamental human rights are undermined by our failure to adopt *E*, many argue that since autonomous agency is required for moral culpability, and since only individuals have autonomous agency, only they can be culpable for moral transgressions. However, no individual contributed to climate change on their own; on the contrary, it was the aggregative behavior of individuals, whether it be by controlling or not controlling the states and corporations that have done the polluting, that has led to climate change. This notion of collective responsibility holds entire segments of previous generations that emitted GHG responsible for not adopting *E* and undermining the fundamental human rights of subsequent generations. This, however, begs an important question: can contemporary generations be held responsible for the unjust actions of previous generations if the latter are deceased and had no way of knowing that their actions were an injustice in the first place?

In short, yes. Even though previous generations of the 19th century could not have known the consequences of industrial pollution, the decision to emit GHG bestowed an initial benefit onto them which has yielded a multiplicity of benefits currently enjoyed by the citizens and residents of the state that governs the territory where the initial benefit occurred. The benefits referred to are the tremendous increases in wealth and living standards that polluting industrialization brought about. Those residing in Canada today, for example, would not be benefiting from such relatively high living standards if Canada's previous inhabitants did not make the collective choice to undergo polluting industrialization, and if current residents did not take so long to begin the transition to non-polluting, renewable energy. Essentially, because Canada's current citizens and residents have inherited the benefits of the injustice committed by those who came before them, they have also inherited the responsibility to repair the harm caused by this injustice. Further, because only collective action can repair the harm committed by industrial-level pollution, the burden of reparations falls onto the states in which the initial benefit occurred. These states will hereafter be referred to as "reparation states."

Degrees of Culpability

A reparation state's degree of culpability – from which stems the amount of reparations owed – is not a product of how much that state has benefited from emitting GHG. Indeed, while not all states that experienced the initial benefit have remained beneficiaries over time, this does not make such states any less culpable than those that have maximized subsequent benefits. Saying

so would be implying that poor decision-making, insofar as it reduces the benefits which stem from the initial injustice, voids people of culpability and the duty of reparations; in other words, just because someone who stole another person's car lost the keys and no longer enjoys the benefits which stem from the initial injustice does not mean that the thief is any less culpable for the crime.

Likewise, a state is not solely considered a reparation state because it experienced benefits, but because these benefits imposed costs onto others. This notion, which bears resemblance to Peter Singer's 'polluter pays principle',¹⁷ holds that the extent of reparations that a state owes is dependent on how much that state contributed to climate change, presumably measured in tons of GHG emitted per capita over time. To frame it from a perspective of rights, a state's degree of culpability is determined by the extent that it undermined future generations' peremptory human rights, or failed to adopt *E*.

Culpability in Practice

Determining which states are the most culpable is not the subject of this paper, nor is determining the yardstick for measuring culpability. What is relevant, however, is that reparation states include, but are not limited to: the United States, the United Kingdom, Germany, Russia, China, India, and Canada. These states, among others, are responsible for undermining the most fundamental human rights of future – and current – generations. Among the rights these states have and continue to undermine by their inaction include future and current generations' right to clean drinking-water, right to adequate food, housing, and an adequate living standard, the right to nationality, and ultimately the right to life, all of which are rooted in international law. The states that have ratified the relevant international institution which render these human rights binding and enforceable have egregiously violated the institutions of international law that they have voluntarily bound themselves to and are thus liable to be brought before the International Court of Justice.

With this said, whether a state has ratified the relevant international institutions is morally irrelevant. All reparation states necessarily have a duty of reparations, defined as ensuring that the human rights which are set to be undermined by human-induced climate change – which would not have been undermined were it not for the historical injustice – are upheld. In theory, this entails essentially transferring some of the material benefits of pollution onto the peoples experiencing

¹⁷ Peter Singer, "One Atmosphere," in *Climate Ethics: Essential Readings*, ed. Stephen M. Gardiner, Simon Caney, Dale Jamieson and Henry Shue (Oxford: Oxford University Press, 2000), 667-688.

the costs of humanity's past and present actions and inactions respectively; in practice, it means helping people adversely affected adapt to a changing environment by helping states internally resettle their populations when need be and, when necessary, externally resettling and naturalizing them in reparations states.

Moving Forward: Repairing the Wrong

Repairing the Wrong in Theory

It goes without saying that all states – reparation states especially – have a duty to mitigate the failure to adopt *E* by transitioning to non-pollutant renewable energy. Reparation states have a further duty to take particular measures to help the persons whose fundamental human rights will be undermined. Regarding these people, there will be two types: those that are able to remain where they are and those that are forced to migrate. The former live in countries and cities that remain livable, but where life is more difficult than it previously was. In this case, culpable states have a duty to pay financial compensation to these states and municipalities helping to implement adaptation strategies that will reduce climate change's harmful impact. Regarding the latter peoples, the people who have no choice but to migrate,¹⁸ there are two further sub-types: those that can simply migrate to another part of their country, from a low-lying part of Bangladesh to a higher-elevated part of the country, for example, and those that are forced to leave their country. In both cases, reparation states have a duty to help resettle the migrants, whether by providing financial or logistical support to countries attempting to internally resettle their population, or by helping externally resettle them in reparation states. The former of these cases poses no legal challenge, but the latter does.

This is because migrants have no right to enter, reside, and remain in a given country. Moreover, even if granted these rights, such migrants will nonetheless lack the political rights that characterize full nationals meaning they will come to embody a form of 'citizen light' or 'denizen', an inherently inferior position to that which they might have occupied if it had not been for the injustice of reparation states. Given this, and given that the migrant will not be able to reside in the place of their former home for an indefinite period, fulfilling the duty of reparations entails naturalizing the foreigner in the name of equality.

¹⁸ "No choice but to migrate" is not defined so narrowly as to mean a situation where one's decision not to migrate would mean death; rather, "no choice but to migrate" is a situation where one's human rights are undermined to the point that climate change meaningfully transforms one's ability to lead the life they used to.

Such a process of naturalization should not be dependent on fulfilling certain tests, such as a language competency tests; given the unique circumstances under which the migration occurred – it being a consequence of the injustice committed by reparation states – reparation states should seek to naturalize the foreigner almost immediately. Granted, while it might be reasonable to ask the foreigner to assimilate into his new society’s public sphere by learning its spoken languages, this should not be a pre-requisite for naturalization as learning a new language in adulthood may take years rendering the foreigner a ‘denizen’ for far too long. Ultimately, in the case of externally resettling migrants, culpable states are at the very least bound by duty to settle and naturalize migrants in their own territory granting them equal rights as nationals.

Repairing the Wrong Under Contemporary International Law

Per the Convention Relating to the Status of Refugees (CRSR), the seminal institution of international law that pertains to refugees, one can only claim refugee status if they are persons that:

owing to the well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.¹⁹

While some regional human right instruments have widened this definition,²⁰ the working definition of refugee remains a political and individualistic one. The consequence is that persons forced to migrate for climate-related reasons are not considered refugees, for they are not fleeing for fear of being persecuted but rather for their health and safety. The implications of this are significant, for states are under no obligation to admit a migrant but are under one to process the claim of a refugee. So, to ensure that reparation states’ duty to help resettle those forced to migrate for climate-related reasons is underpinned by similar fiduciary responsibilities, the CRSR must be reformed to widen the definition of refugee in such a way that legally qualifies persons forced to migrate for climate-related reasons as such.

¹⁹ Convention Relating to the Status of Refugees, art 1(a)(2).

²⁰ Cartagena Declaration on Refugees, art 3 para 3 (*emphasis mine*); Convention Governing the Specific Aspects of Refugee Problems in Africa, art 1(2); the Cartagena Declaration was seen by many as building upon the definition put forth in the “OAU Convention”, the Organization of African Unity Convention.

Widening the definition of refugee to encompass not only political and individual dimensions but also environmental and collective ones would achieve this end. Such a definition was put forward in 1984 in the Cartagena Declaration on Refugees, where refugees are defined as those that “have fled their country because their lives, safety or freedom have been threaten by generalized violence, foreign aggression, internal conflicts, *massive violation of human rights or other circumstances which have seriously disturbed public order*”.²¹ This definition implicitly recognizes the environmental and collective dimension of being a refugee allowing for entire regions of persons to be legally considered as such. Since successfully undertaking the duty of reparations becomes more likely if international law were to be reformed in this way, reparations states have a corollary duty to reform international law in this way and to bind themselves to it.

However, even once the definition of refugee is enlarged to encompass what would otherwise be considered climate migrants, unjust inequality between recently resettled climate refugees and nationals will persist. For example, according to the CRSR, “a refugee shall enjoy [...] the same treatment as nationals” regarding access to national courts, the right to association, the right to public education, the right to wage-earning employment and the right to social security;²² but, regarding the right to housing, for example, refugees are accorded “treatment as favorable as possible and, in any event, *not less favourable than that accorded to aliens generally in the same circumstances*”.²³ *De facto*, refugees have even less rights relative to nationals than as is described above.

Moreover, even though the CRSR dictates that states that have admitted a refugee shall “as far as possible facilitate the assimilation and naturalization of refugees”,²⁴ their naturalization is not inevitable. Since naturalization is what ensures that climate refugees have the same rights as nationals, which is what the duty of reparations mandates, the CRSR must be amended further to place states under a greater legal obligation than already exists to naturalize climate refugees. This, however, requires legally distinguishing between political and environmental refugees, which essentially creates a hierarchy of refugees which, while appearing objectionable, is justified given the circumstances.

Conclusion

²¹ Cartagena Declaration on Refugees, art 3, para 3 (*emphasis mine*).

²² *Supra* note 17, art 15-17; 22; 24(1)(b).

²³ *Ibid*, art 21 (*emphasis mine*).

²⁴ *Supra* note 17, art 34.

Despite what the person-affecting principle may lead us to believe, primordial principles of justice – principles of intergenerational justice more specifically – demand that living generations do their fair share in achieving the conditions necessary for preserving a minimal level of fundamental human rights. In short, justice requires generations to adopt *E*; but, *E* has not been adopted. The actions of previous generations – and the inactions of current ones – have undermined the protection of future generations’ most fundamental rights. Reparations are thus in order, and it is certain segments of contemporary generations – granted, those who are the relatively least responsible for human-induced climate change – that are duty-bound to see to them. Indeed, because certain segments of contemporary generations have inherited the benefits of their predecessors’ injustice, which has and will continue to impose tremendous costs onto others, they have also inherited the duty of reparations. Since such reparations can only be carried out through collective action, it is the states that govern the territory where the initial injustice was committed that is responsible for carrying the reparations out. In other words, these states – so-called reparation states – have a duty to right the wrong.

Fulfilling this duty must take multiple forms. First, all states – reparation states especially – have a duty to transition to non-pollutant renewable energy. The responsibilities of reparation states go further, however. They must help people whose fundamental human rights are set to be undermined by climate change adapt to a changing environment by providing states with financial compensation to help internally resettle them and implement adaptation strategies; and, when peoples are forced to leave their countries entirely, must externally resettle and naturalize them in their reparation states.

Regarding the latter situation, once resettled, culpable states must ensure that these persons do not embody a form of ‘citizen light’ or ‘denizen’, which they would if they were to be considered as foreigners for a significant duration of time; instead, culpable states must grant their new arrivals with the rights of nationals by naturalizing them. But, because international law institutionalizes legal responsibilities that are much less onerous than this moral duty of reparations, and because culpable states are significantly less likely to fulfill their duty of reparations if they are not legally bound to do so, the CRSR should be reformed in such a way that both enlarges the definition of refugee to include those forced to migrate for climate-related reasons and places states under a duty to naturalize said refugees. This means drawing on the 1984 Cartagena Declaration on Refugees, which can add environmental and collective dimensions to

the political and individualistic and definition put forth in the CRSR. Finally, because ratifying this would-be newly-reformed CRSR makes fulfilling the duty of reparations more likely, culpable states have a duty to do just that. However, rather unfortunately, in our era of *realpolitik* where states act only in accordance with their national interests, culpable states fulling their duties is likely to remain a dream that those steadfast in the pursuit of justice hope, one day, becomes a reality.

Bibliography

- Allen, M.R., O.P. Dube, W. Solecki, F. Aragón-Durand, W. Cramer, S. Humphreys, M. Kainuma, J. Kala, N. Mahowald, Y. MuLugetta, R. Perez, M. Wairiu, and K. Zickfeld. "Framing and Context." In *Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the global response to the threat of climate change, sustainable development, and efforts to eradicate poverty*, edited by Masson-Delmotte, V., P. Zhai, H.-O. Pörtner, D. Roberts, J. Skea, P.R. Shukla, A. Pirani, W. Moufouma-Okia, C. Péan, R. Pidcock, S. Connors, J.B.R. Matthews, Y. Chen, X. Zhou, M.I. Gomis, E. Lonnoy, T. Maycock, M. Tignor, and T. Waterfield.
- Aquinas, Thomas. *On Law, Morality and Politics*. Indianapolis: Hackett Press, 1958.
- Convention Governing the Specific Aspects of Refugee Problems in Africa, 10 September 1969, 1001 U.N.T.S. 45 (entered into force 20 June, 1974).
- Convention Relating to the Status of Refugees, 28 July 1961, 189 UNTS 137 (entered into force 22 April 1954) [CRSR].
- Harris, Gardiner. "Borrowed Time on Disappearing Land." *The New York Times*. 28 March 2014. <https://www.nytimes.com/2014/03/29/world/asia/facing-rising-seas-bangladesh-confronts-the-consequences-of-climate-change.html>.
- International Covenant on Economic, Social and Cultural Rights, 19 December 1966, 993 UNTS 3 (entered into force 3 January 1976) [ICESCR].
- Lelieveld, J., Proestos Y., Hadjiniocolaou P., Tanarhte M., Tyrlis, E. & Zittis G. "Strongly increasing heat extremes in the Middle East and North Africa (MENA) in the 21st century." *Climatic Change* 137, no. 1-2 (2016), 585-625
- Lubczyńska, M., Christophi, C., and Lelieveld, J. "Heart-Related Cardiovascular Mortality Risk in Cyprus: A Case-Crossover Study Using a Distributed Lag Non-Linear Model." *Environmental Health* 14, no. 1 (2015): 14-39.
- Montevideo Convention on the Rights and Duties of States, 26 December 1933, 165 LNTS 19; 49 Stat 3097 (entered into force 26 December, 1934).
- Parfit, Derek. "The Non-Identity Problem," in *Reasons and Persons*, Oxford: Clarendon Press, 1987.
- Peter Singer, "One Atmosphere," in *Climate Ethics: Essential Readings*, edited by Stephen M. Gardiner, Simon Caney, Dale Jamieson and Henry Shue, 667-688. Oxford: Oxford University Press, 2000.
- Rawls, John. *A Theory of Justice*. Cambridge, MA: Harvard University Press, 1971.

Raz, Joseph. "The Nature of Rights," in *Reasons and Persons*, Oxford: Oxford University Press, 1988.

Universal Declaration of Human Rights, GA Res 217A (III), UNGAOR, 3rd Sess, Supp No 13, UN Doc A/810 (1948) 71, art 15 (entered into force 10 December 1948) [UDHR].

Placeholder for pre

Ecomodernism and the Climate Conundrum:

A Critical Analysis Of Ecomodernism As A Viable Path For Sustainable Development

Zach Grant

Of all the opportunities, we as species, have moving forward with sustainable development and growth, perhaps none is more appealing than that of ecological modernization. Environmentalism and modernization, however, often provoke a particularly troubling paradox. The combination begs the question: how can we advance into the twenty-first century with the attractive features of modernity that we already have – the lightening fast laptops and shiny new cars, the comfortable leather Blundstones and abundance of different foods – while also reducing our impact on the environment? One popular response lies within the ecomodernist school of thought. This paper seeks to critique the ecomodernist theory, demonstrating how its attractive attributes, which often spur a “full speed ahead” reaction in environmentalists and technologists alike, should rather caution us to tap the brakes on our current consumerist tendencies and question the existing power structures that have led us here in the first place.

Of all the opportunities we, as a species, have moving forward with sustainable development and growth, perhaps none is more appealing than that of ecological modernization. At first glance, this pairing of words may seem rather paradoxical, and given the conventionally conservative nature of most environmental agendas, this is entirely understandable; however, the popularity of ecomodernism stems from just that paradox. It begs the question: how can we advance into the twenty-first century with the attractive features of modernity that we already have—the lightning fast laptops and shiny new cars, the comfortable leather Blundstones and abundance of different foods—while also reducing our impact on the environment? The answer lies within the ecomodernist school of thought, developed in the 1980s as a fierce counter-theory to deindustrialization and demodernization.²⁵ This theory knows a relatively short yet heavily contested history, having been thoroughly challenged from a variety of disciplines over the past 40 years; nonetheless, the framework continues to receive much attention, refining its theoretical

²⁵ Mol, A. P. J. and Spaargaren, G. “Ecological modernisation theory in debate: A review.” *Environmental Politics* 9, no.1 (2000): 17-50. doi:10.1080/09644010008414511

basis as it goes, but always, as noted by Mol and Spaargaren, maintaining several “continuities” that reinforce its foundation in capitalist modes of production and free-market environmentalism.²⁶ Today, ecomodernism ranks high in discussions of sustainable development pathways, particularly in the eyes of scholars such as Ted Nordhaus and Michael Shellenberger, cofounders of the Breakthrough Institute, and fifteen other notable environmentalists who have shared their vision of a highly modern, that is to say technologically advanced and continually growing, future through their text, the *Ecomodernist Manifesto*.²⁷ Despite being considered a breakthrough in conceptions of environmental sustainability and the large amount of support the concept has gained worldwide, including from scholars of a diverse disciplinary range, ecomodernism is not without its critics, many of whom propose convincing problematic situations that could arise if we adhere to such a vision. Accordingly, this paper will argue that ecomodernism is an overly optimistic, techno-centric, western-based conception of mainstream sustainable development that is not reasonably critical of its own implications and is therefore not appropriate for policy implementation. First, a brief historical contextualization and critical description of ecomodernism and its related literature will be given. Following this, I will give a critical analysis of the concept built on three main points: first, that ecomodernism provides a reductionist account of sustainable development pathways by suggesting a false binary of how to move forward; second, that it is founded upon a hope for uncertain technological advancement; and lastly, that it is euro-centric and not feasible to apply on a global scale. Alternative models to development will be mentioned throughout, but these critiques of ecomodernism will be made from a position that recognizes the difficulties involved in such alternative methods, and that, consequently, an approach that works within the current capitalist paradigm would naturally be easier.

Ecomodernism finds its roots in the early 1980s as a response to the dominant environmental sociology perspectives at the time, namely, those of deindustrialization and demodernization.²⁸ Debates between these schools did much to shape ecomodernism as we know it today, and ecomodernism reciprocated the critiques by calling into question core ideas of demodernization theorists.²⁹ The contemporary interpretation of ecomodernism, however, has become the attractive face of sustainable development due to the work of the Breakthrough Institute and the scholars

²⁶ Mol and Spaargaren. “Ecological modernisation theory in debate.” 22-23.

²⁷ Asafu-Adjaye, J. et al. *An Ecomodernist Manifesto*. (2015). <http://www.ecomodernism.org>

²⁸ Mol and Spaargaren. “Ecological modernisation theory in debate.” (2000).

²⁹ Mol and Spaargaren. “Ecological modernisation theory in debate.” (2000).

who work within it. The Breakthrough Institute is, in its own words, “a global research centre that identifies and promotes technological solutions to environmental and human development challenges.”³⁰ It is, therefore, the goal of ecomodernism to approach modernity in a highly technological fashion, by putting all of our efforts into spurring economic growth that will advance the sophistication and abilities of technology such that we can decouple the impact of human activity on the environment from economic growth. While the interest factor is certainly high for this modernist form of environmentalism, the real appeal for ecomodernism stems from the fact that it does not question the current growth paradigm that characterizes contemporary Western societies. This paradigm has certainly strengthened over the past fifty years with the introduction of neoliberalism and neoclassical economics, but extends back to the industrial revolution and the emergence of the modern capitalist economy and rise of the Anthropocene.³¹ The Ecomodernist Manifesto, the definitive text of the Breakthrough Institute, presented a novel perception of how humans may approach a way of life on Earth that questions neither our current practices in terms of consumption and daily activities, nor the dominant Western conception of development, which is one of economic growth. It was, therefore, very well received and a welcome alternative for many to the concept of degrowth, which was not often addressed in public discourse and certainly not in policy circles given the challenges it poses to political and economic elites. Since its introduction, ecomodernism has gained much support from a variety of people within the Western setting. Many of the academics and authors invested in the concept are also directly involved with the Breakthrough Institute, and several of them helped author the Manifesto. On the other hand, others, such as journalists and environmental activists George Monbiot and Josh Halpern, are very critical of ecomodernism. Interestingly, with the exception of those who consider themselves ecomodernists outright, the majority of scholars who endeavour to study ecomodernism from any perspective—be it political, technological, ecological—produce piercing criticisms of the concept that highlight its numerous flaws. Following this trend, we will move on to the critique.

Consistent with past models of development such as modernization theory and Rostow’s stages of growth, ecological modernization suggests a linear model of development. As such, it suggests that society can either move forward toward a modern society that is highly industrialized and

³⁰ Breakthrough Institute. About. (n.d.) <https://thebreakthrough.org/about>

³¹ Castree, N. (2015). “Anthropocene.” *Geography*. Oxford University Press. (2015)
<https://dx.doi.org/10.1093/obo/9780199874002-0111>

technologically advanced, or it can remain stagnant and even fall backward toward an inefficient and impoverished society. In this way, ecomodernism provides a reductionist account of development possibilities for ecological sustainability by presenting a false binary. Following the current growth paradigm that encapsulates contemporary western society, ecomodernism dictates that the only way forward is to continue to grow, to further our economic possibilities through tech advancements and applying it to ecological problems. Not to do so would, given the binary, entail no or negative progress, which would hurt our economic standing. It would also prevent efficient solutions to pressing environmental issues while populations continue to rise and we increasingly suppress nature with urban expansion and pollute it with excessive amounts of chemicals. What ecomodernism does not acknowledge is a diverse array of alternative paths to sustainable development that do not entail rapid technological acceleration and market expansion, such as degrowth initiatives. One example of a degrowth initiative is Buen Vivir, which Vanhulst and Beling describe as “including both the idea of interdependence between society and its natural environment and a conception of the ‘universal’ as plural reality,”³² thereby emphasizing the well being of the community and environment together. Ecomodernism, however, affirms that the sole way to move forward in a sustainable manner is to decouple humanity’s insatiable desire for economic growth from environmental impact.³³ In a critical engagement of ecomodernism from a technology assessment standpoint, Grunwald outlines how this process has resulted in the synonymy of continuous technological advancement and economic growth.³⁴ They have become, in his words, “twin concepts.” This only emphasizes further the dichotomy that is made between progressing and regressing in ecomodernism, as the only option presented is to expand the technological repertoire—which can still be useful in a degrowth context without the total devotion to technology—but ecomodernism has presented it as part and parcel of economic growth. Further, the ecomodernist dichotomy has a pathological nature to it. In his article on the bipolarity of human responses to the anthropocene, Kupferschmidt identifies a psychological response to the binary of advancing or retreating as one of mania or depression, respectively.³⁵ The idea of a highly

³² Vanhulst, J., and Beling, A. E. “Buen vivir: Emergent discourse within or beyond sustainable development?” *Ecological Economics* 101, (2014): 56.

³³ Asafu-adjaye et al. *An Ecomodernist Manifesto*. (2015).

³⁴ Grunwald, A. “Diverging pathways to overcoming the environmental crisis: A critique of eco-modernism from a technology assessment perspective.” *Journal of Cleaner Production*. (2016): 1854.

³⁵ Kupferschmidt, P. D. “The Bipolarity of Modern ‘Man’ in the Anthropocene: Ecomodernist Mania as Case for Unmanning Anthropocene Discourse.” *The Trumpeter: Journal of Ecosophy* 32 no. 2, (2016): 102-125.

advanced society in which the natural environment can flourish alongside humanity is both appealing and exciting, but the challenge of it is almost disheartening and the consequences should it not be achieved can be disastrous. This leads to the depression that may be experienced by the potential for failure and having to resort to degrowth. Kupferschmidt likens this process to British psychoanalyst Darian Leader's conceptualization of bipolar disorder:³⁶

Leader accounts for bipolar disorder's characteristic thought-patterns and clinical expressions in terms of a contradiction between two competing pathological perspectives. For Leader, the mania and depression that characterize bipolar disorder develop out of an "effort to separate, to maintain an elementary differentiation in the place of a more confusing and more painful set of contradictions."³⁷

Thus the ecomodernist dichotomy has created a bipolarity within society, in which we are reducing a complex problem into one of two choices, which are contradictory and whose implications are difficult to fully understand. Kupferschmidt continues, "Unfortunately, the subject has identified itself so intimately with the conflict that it is unable to simply make a rational plan for self-improvement. [...] The person needs a new state of mind, as the sense of responsibility is paralyzing."³⁸ As a species, we have become so preoccupied by the need to find a solution to climate change, since it is crucial to our well-being, that it has come to define our contemporary existence. Thus, as ecomodernism imposes its binary character on us, we are faced with a paralyzing decision and yearn for alternatives that can still present us with a desirable lifestyle. Ecomodernism, however, gives us no such answers: "Absent profound technological change there is no credible path to meaningful climate mitigation."³⁹ Kupferschmidt criticizes Nordhaus and Shellenberger in saying they resort to denial in a time of crisis and suggests that "the destructive human capacity for denial can only be remedied by avoiding the polar structure altogether."⁴⁰ Therefore, from a psychoanalytic perspective, an adequate solution to environmental crises means moving away from ecomodernism and looking at alternative methods to sustainable development. Ecomodernism presents a false binary of societal advancement and regression that reduces a

³⁶ Leader, D. *Strictly bipolar*. (Penguin UK, 2013).

³⁷ Kupferschmidt. "The Bipolarity of Modern 'Man' in the Anthropocene." 110.

³⁸ Kupferschmidt. 111.

³⁹ Asafu-adjaye et al. *An Ecomodernist Manifesto*. 21.

⁴⁰ Kupferschmidt. 103.

complex problem into a single decision and has implications for our mental ability to solve the problem.

Ecomodernism is also almost entirely predicated on the idea of uncertain technological advancements. The progress in modern technologies spoken of in the Manifesto are clearly of unprecedented power and efficiency: “Transitioning to a world powered by zero-carbon energy sources will require energy technologies that are power dense and capable of scaling to many tens of terawatts to power a growing human economy.”⁴¹ They are also practically nonexistent: “Most forms of renewable energy are, unfortunately, incapable of doing so.”⁴² Thus the ecomodernist manifesto seems to be heavily dependent on the prospect of sophisticated innovations to modern technologies and the creation of entirely new technologies, with little credibility to reassure us of the feasibility of these propositions. Karlsson uses three metaphors to summarize humans’ impacts on the earth and our possibilities for remedying them.⁴³ He describes ecomodernism as an airplane speeding down a runway moments from taking off into a prolonged smooth and comfortable flight. The problem, notes Karlsson, lies with the fact that at the time of departure, no one knows the true length of the runway as it is covered in a dense fog. He states, “It is not possible to know, at least a priori, the true resilience of nature or to make anything but a crude estimation of planetary boundaries of the human enterprise.”⁴⁴ Although the ecomodernists themselves are very critical of the existence of the nine planetary boundaries,⁴⁵ as well as of the limits to growth proposed by Meadows et al.,⁴⁶ Karlsson suggests that this lack of knowledge or scepticism concerning the abilities of the planet to cope with the stresses we inflict on it should not spur us to race forward, citing a lack of evidence to do the contrary, but rather to give lengthy and careful consideration to the concepts that we are keen to put so much stock into. Ecomodernism, however, encourages the rapid acceleration of investment into market technologies and the deregulation and diversification of the market in this area to allow for the hopeful production of much-needed technological

⁴¹ Asafu-adjaye et al. *An Ecomodernist Manifesto*. 23.

⁴² Ibid.

⁴³ Karlsson, R. “Three metaphors for sustainability in the Anthropocene.” *Anthropocene Review*, 3 no.1 (2016): 23-32.

⁴⁴ Karlsson. 28.

⁴⁵ Nordhaus, Ted, Michael Shellenberger, and Linus Blomqvist. “The planetary boundaries hypothesis: A review of the evidence.” Oakland, CA: Breakthrough Institute (2012).

⁴⁶ Meadows, D. H., Club of Rome, and Potomac Associates. “The limits to growth : A report for the club of rome's project on the predicament of mankind.” (Second ed.). New York: Universe Books. (1974).

advancements. It is, according to O’Riordan, a “technocentrist” take on environmentalism, and it is dangerous.⁴⁷ Important though it may be to recognize that time is of the essence and that some decisive action may be needed soon, it would be unwise to pursue the rash action encouraged by ecomodernism in the form of unjustifiable assumptions about the rate of progress of technology. Karlsson echoes this ecomodernist stance in stating that considering the significant amount of fossil fuels already consumed and the value we place on them today, “the prospects of ‘rebooting’ modernity and reaching technological maturity would be uncertain if the current window of opportunity is lost through civilizational backsliding.”⁴⁸ Again, the dichotomy of forward and backward progress is apparent in the assumptions of ecomodernism regarding technological innovation. But while civilizational backsliding may not be desirable, rapid acceleration of technological progress can be dangerous because it reduces the possibility to learn from and improve upon existing technology for the future. It is an elementary lesson that we must learn from our mistakes before moving forward, but this can only be accomplished if we have the time and opportunity to make mistakes in the first place and then to recognize them as mistakes before it’s too late. The rapid rate of progress with ecomodernism eliminates this crucial step.

Furthermore, Grunwald describes this tendency of ecomodernism to take technology for granted as a perspective of excessive techno-optimism.⁴⁹ Rather than addressing a legitimate growth-critical debate, the Manifesto relies on encouraging rhetoric and vague descriptions to propose a dazzling future and mask the uncertainty involved in arriving at such an outcome. For example, the ecomodernist conception of the process of modernization is described as “the long-term evolution of social, economic, political, and technological arrangements in human societies toward vastly improved material well-being, public health, resource productivity, economic integration, shared infrastructure, and personal freedom.”⁵⁰ Preceding this definition is the assertion that the ecomodernists reject the reductionist claims that ecomodernism can be conflated with capitalism, corporate power, and neoclassical economics; however, in providing descriptions void of any real meaning and making such optimistic claims with little proof of credibility, they give no reason to

⁴⁷ O’riordan, Timothy. “Environmentalism and education.” *Journal of Geography in Higher Education* 5, no. 1 (1981): 3-17.

⁴⁸ Karlsson. Three metaphors for sustainability in the Anthropocene. 28.

⁴⁹ Grunwald. Diverging pathways to overcoming the environmental crisis. (2016).

⁵⁰ Asafu-adjaye et al. *An Ecomodernist Manifesto*. 28.

believe otherwise and leave open the assumption that this optimism must come from the economic gain that will benefit the powerful. Weaver et al. acknowledges the potential for technology to make great improvements in the well-being of the planet,⁵¹ particularly with the possibility of clean, efficient alternatives to fossil fuels, but he notes that the track record for modernization—such as that which occurred with the industrial revolution—precedes this, and it is not a clean record, literally. That said, the scholars hypothesize that technology had this effect due to the fact that, during its creation, low environmental impact was nowhere near a top priority.⁵² Technology was created for the purpose of growth, further division of labour and greater efficiency, but emissions levels and toxic byproducts were not much taken into consideration. So, if technology were created and used for the sole objective of improving ecological welfare, perhaps it could do a lot for the environment and even reverse existing damage. While certainly an intriguing idea, this approach entails a certain degree of assurance that advancements in technology will be sufficient to bring about such results. It is also predicated on the idea that there will be no unintended side-effects or malfunctions of the desired technology in performing its functions, which, as Grunwald notes, is almost always part of the process.⁵³ First, it is almost guaranteed to have technical malfunctions with new technology and, given the established sophistication of this modern tech, the consequences could be very destructive. In addition to malfunctions, it is possible to have what Grunwald calls “rebound effects.” Grunwald states, “As soon as more efficient technologies become available, usage patterns and behaviours often change, thereby reducing or even cancelling out the expected efficiency gains.”⁵⁴ While the side-effects of technology don’t have to be disastrous, a reduction in expected positive outcomes of any kind run counter to the objectives of ecomodernism as a whole. Hence, a reasonably critical level of tech assessment in sustainable development planning is of great importance. The significance of it should also be noted from a sociological point of view: “Technology is deeply related to society instead of being something external. The artifacts such as machines, products, or systems are not considered or assessed as such, but rather as elements of socio-technical constellations.”⁵⁵ Therefore, recognizing the close relationship between technology and our social lives, we can more accurately

⁵¹ Weaver, P. et al. *Sustainable technology development*. Routledge. (2017).

⁵² Ibid.

⁵³ Grunwald. *Diverging pathways to overcoming the environmental crisis*. (2016).

⁵⁴ Grunwald. 1858.

⁵⁵ Grunwald. 1859.

assess the impacts of technology with regard to society, including how we incorporate it into our daily lives and how it influences our agency and increases or even decreases our potential. From an environmental perspective, this allows us to better question whether or not technology itself can solve environmental crises, as the Manifesto suggests. Grunwald contends, however, that from a technology assessment perspective, “technology as such will not be able to solve environmental problems. Instead, a socio-technical transformation is needed which requires technology as embedded in social constellations from the very beginning of technology development.”⁵⁶ This claim has resounding implications for ecomodernists, who, by virtue of their stance on techno-environmentalism, necessarily imply a certain dependence by humans on technology to solve ecological issues, instead of recognizing technologies as socio-technical actors embedded in “decision-making processes and in value systems.”⁵⁷ The techno-centric approach to modernization of ecomodernism promotes rapid technological acceleration without critical self-reflection and abounds in undue optimism.

The lack of global application of ecological modernization further makes it an unsuitable sustainable development option. Many scholars have emphasized the need for small-scale, local initiatives to development in order to achieve lasting results in wilderness preservation, renewable energy sources, and natural area management alongside a growing population and increased pollution.^{58,59} Gudynas highlights, for example, the need to break down the dualism between society and nature, disposing of materialist and consumerist culture, and incorporating the concept of our local natural environments into assessments of our own well-being.⁶⁰ The importance of locality emphasizes the fact that, despite living in a presently very globalized world, we cannot focus on, or at least not make viable successful changes in, the wellbeing of the world as a whole, as the environments are incredibly diverse and the cultures surrounding them very dynamic. Attention to local achievements in ecological welfare promotes a biocentric outlook on development and allows greater interaction “in dialogue and in praxis of promoting development

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Robinson, J. “Squaring the circle? Some thoughts on the idea of sustainable development.” *Ecological Economics* 48 no. 4, (2004): 369-384. doi:10.1016/j.ecolecon.2003.10.017

⁵⁹ Meadows et al. *The limits to growth*. (1974).

⁶⁰ Gudynas, E. “Buen vivir: Today's tomorrow.” *Development*, 54 no. 4, (2011): 441-447. doi:10.1057/dev.2011.86

alternatives.”⁶¹ We can therefore connect more intimately with our surrounding environments and measure our progress more accurately.⁶² Despite these claims, ecomodernism forcefully contends that moving against the grains of a global framework that is already very modern is detrimental to success. The Manifesto suggests we take advantage of our technological prowess and move forward with it on a global scale:

The ethical and pragmatic path toward a just and sustainable global energy economy [...] will require sustained public support for the development and deployment of clean energy technologies, both within nations and between them, through international collaboration and competition, and within a broader framework for global modernization and development.⁶³

Thus not only is global modernization the desired outcome, but it is both practical and moral. While ecomodernism presents itself as a very enticing option for development, it becomes increasingly problematic when applied outside of a Western context, particularly given the current international dynamics of unequal power. Modern technologies are part of our everyday lives within the Global North; the appeal of ecomodernism is strengthened by the fact that it does not present much of a stretch to our current technology-dependent societies. To suggest, however, that such a modern path will be implemented globally—to child labourers in Southeastern Asia, or single mothers walking miles to find potable drinking water in much of sub-saharan Africa, or, especially, indigenous communities worldwide who have already been displaced from their lands by capitalist society—is nothing short of deceptive. Calling into question Kellert and Wilson’s notion of biophilia on a global scale,⁶⁴ Symons and Karlsson state that “full implementation of ecomodernist ideals would require widespread embrace of eco-philic values, high-trust societies and acceptance of thick political obligations within both national and global communities.”⁶⁵ This claim highlights the complex nature of implementing an ecomodernist approach to environmentalism worldwide. Ecomodernism implores the need for “active, assertive, and aggressive participation of private sector entrepreneurs, markets, civil society, and the state” in

⁶¹ Gudynas. “Buen vivir: Today’s tomorrow.” 446.

⁶² Kothari, A., Demaria, F., and Acosta, A. “Buen vivir, degrowth and ecological swaraj: Alternatives to sustainable development and the green economy.” *Development* 57 no.3-4, (2014): 362-375. doi:10.1057/dev.2015.24

⁶³ Asafu-adjaye et al. *An Ecomodernist Manifesto*. (2015).

⁶⁴ Kellert, S. R., and Wilson, E. O. (Eds.). *The biophilia hypothesis*. Island Press. (1995).

⁶⁵ Symons, J., and Karlsson, R. “Ecomodernist citizenship: Rethinking political obligations in a climate-changed world.” *Citizenship Studies* 22 no. 7, (2018): 685-704. doi:10.1080/13621025.2018.1508414

order to achieve the significant advances in technological progress required to reach full implementation of ecomodernism;⁶⁶ however, this participation, as per Symons and Karlsson, is deeply embedded in societal relations and political agendas on multiple levels. Thus, given the wide political support that would be needed for such outcomes to be achieved and the complex nature of intergovernmental relations, it is overly ambitious to assume a relatively smooth transition to ecomodernism within even a Western context.

Further, Symons and Karlsson note the requirement of competent, stable government to deliver the “state-driven and mission-oriented innovation that will be needed to promote ecological flourishing, human progress and other global public goods” in an ecomodernist context.⁶⁷ Not only is there a need for intergovernmental cooperation, but a stable and democratic consensus worldwide on the methods and objectives of ecomodernism. However, many regions around the world lack such types of government, such as the authoritarian regimes of the Russian Federation or the People’s Republic of China, and would therefore pose significant problems to the global application of ecomodernism. Iraq’s nearly thirty years of hostile relations with the US would greatly jeopardize any chance of its following a Western-prescribed development model, and its economy, like that of the UAE and much of the middle east, is significantly based on oil production. The political and economic power of these nations along with the ruling class’s control of their people would be entirely lost by a transition to green, ecomodernist technologies. Thus, ecomodernism fails to call into question current global power disparities and tensions between national social classes; its implementation would consequently reinforce them or be considerably unsuccessful. The tensions between sustainability and capitalist growth are at the forefront of the development issue and are heightened by the prospect of global application. As part of a resolution to, or at least a recognition of, the political turmoil faced by the global ecomodernist approach, Symons and Karlsson suggest the concept of ecomodernist citizenship, which illustrates the “rights, duties, subjectivities, and practices” that would need to be observed to follow the ecomodernist continuation of the capitalist growth paradigm.⁶⁸ However, even given this prescription, the potential for serious political and social upheaval should be of great concern:

⁶⁶ Asafu-adjaye et al. *An Ecomodernist Manifesto*. 30.

⁶⁷ Symons and Karlsson. “Ecomodernist citizenship.” 690.

⁶⁸ Symons and Karlsson. 685.

It is not difficult to imagine how these two narratives – of exclusionary, nationalist citizenship and of climate-linked conflict, famine and migration – might eventually converge into a system of deepening global apartheid, in which inviolable barriers separate zones of affluence and impoverishment.⁶⁹

Once again the political and economic barriers faced by ecomodernism reveal themselves to be potentially insurmountable with the simplistic approach of continuous growth and technological advancement. They further demonstrate the incompatible nature of ecomodernism with international politics and the possibility for it to further deteriorate social relations within a country. Ecological modernization is therefore not a suitable path for global sustainable development.

Given the extensive literature on sustainable development available today, approaches to solving the global climate crisis are numerous and diverse. Ecomodernism presents one of the unique options for development that does not hinder economic growth in the process, but rather increases and thrives on it. Its wide appeal stems from its ability to work within the modern capitalist economy and it gains much political and economic support in this regard. In qualifying ecological modernization as simply another conceptualization of mainstream sustainable development and market environmentalism, Adams stated, “Here is the vision of Brundtland, with economic growth in a capitalist economy working within the constraints of ecological sustainability.”⁷⁰ This paper, however, has endeavoured to prove that a more apt description of the functioning of ecomodernism would be that ecological sustainability is forced to work within the constraints of the modern capitalist economy. Through a structured discussion of the reductionist argument inherent to the message of the Ecomodernist Manifesto, the bipolar nature of mainstream environmentalism, the techno-centric and optimistic attitude of ecomodernism, and finally, its unsuitability for global application, we have revealed some of the concept’s innumerable and interdisciplinary flaws, and dismantled many of its founding values. Given the conclusions of this critique, development approaches that utilize the benefits of technological advancement while still maintaining an overall objective of degrowth and localization would be well worth critical investigation.

⁶⁹ Symons and Karlsson. 686.

⁷⁰ Adams, Bill. “Mainstream Sustainable Development.” In *Green Development: Environment and Sustainability in a Developing World*. (London: Routledge Press, 2008), 110.

Bibliography

- Adams, Bill. "Mainstream Sustainable Development." In *Green Development: Environment and Sustainability in a Developing World*, 116-139. London: Routledge Press, 2008.
- Asafu-Adjaye, John, Linus Blomquist, Stewart Brand, Barry W. Brook, Ruth DeFries, Erle Ellis, Christopher Foreman et al. *An Ecomodernist Manifesto*. 2015.
- Breakthrough Institute. "About." <https://thebreakthrough.org/about> n.d.
- Castree, Noel. "Anthropocene." *Geography*. Oxford University Press. 2015.
<https://dx.doi.org/10.1093/obo/9780199874002-0111>
- Grunwald, Armin. "Diverging pathways to overcoming the environmental crisis: A critique of eco-modernism from a technology assessment perspective." *Journal of Cleaner Production* 197 (2018): 1854-1862.
- Gudynas, Eduardo. "Buen Vivir: today's tomorrow." *Development* 54, no. 4 (2011): 441-447.
doi:10.1057/dev.2011.86
- Karlsson, Rasmus. "Three metaphors for sustainability in the Anthropocene." *The Anthropocene Review* 3, no. 1 (2016): 23-32..
- Kellert, Stephen R., and Edward O. Wilson, eds. *The biophilia hypothesis*. Island Press, 1995.
- Kothari, Ashish, Federico Demaria, and Alberto Acosta. "Buen Vivir, degrowth and ecological Swaraj: Alternatives to sustainable development and the green economy." *Development* 57, no. 3-4 (2014): 362-375. doi:10.1057/dev.2015.24
- Kupferschmidt, Philip Douglas. "The Bipolarity of Modern 'Man' in the Anthropocene: Ecomodernist Mania as Case for Unmanning Anthropocene Discourse." *The Trumpeter: Journal of Ecosophy* 32, no. 2 (2016): 102-125..
- Leader, Darian. *Strictly bipolar*. Penguin UK, 2013.
- Meadows, Donella H., Club of Rome, and Potomac Associates. *The limits to growth : A report for the club of rome's project on the predicament of mankind* (Second ed.). New York: Universe Books. 1974.
- Mol, Arthur PJ, and Gert Spaargaren. "Ecological modernisation theory in debate: a review." *Environmental politics* 9, no. 1 (2000): 17-49. doi:10.1080/09644010008414511
- Nordhaus, Ted, Michael Shellenberger, and Linus Blomqvist. "The planetary boundaries hypothesis." *A Review of the Evidence*. Breakthrough Institute, Oakland, CA. 2012.

O'riordan, Timothy. "Environmentalism and education." *Journal of Geography in Higher Education* 5, no. 1 (1981): 3-17.

Robinson, John. "Squaring the circle? Some thoughts on the idea of sustainable development." *Ecological economics* 48, no. 4 (2004): 369-384. doi:10.1016/j.ecolecon.2003.10.017

Symons, Jonathan, and Rasmus Karlsson. "Ecomodernist citizenship: rethinking political obligations in a climate-changed world." *Citizenship Studies* 22, no. 7 (2018): 685-704. doi:10.1080/13621025.2018.1508414

Vanhulst, Julien, and Adrian E. Beling. "Buen vivir: Emergent discourse within or beyond sustainable development?." *Ecological Economics* 101 (2014): 54-63.

Weaver, Paul, Leo Jansen, Geert Van Grootveld, Egbert Van Spiegel, and Philip Vergragt. *Sustainable technology development*. Routledge, 2017.

Pre amble

**Zero Tolerance for Gender Considerations:
Deconstructing Barriers in Trump's America**

Julia Carver

The issue of migration and asylum-seeking in North America has become increasingly visible in the era of President Trump, who has notably referred to undocumented immigrants as “animals” that “infest” American society. Yet at the global level, a different “epidemic” plagues human society, and drives vulnerable groups, particularly women, to seek asylum: intimate partner violence (IPV). Despite its labelling as a threat to national public health, American institutions have historically occluded two highly vulnerable groups in society from seeking formal relief from IPV: female migrants and female undocumented immigrants. A critical structuralist analysis of American immigration institutions and the global and American refugee regimes is used to probe this deficit through uncovering the socio-structural, economic, and heteropatriarchal factors that exert influence over women’s migration experiences and their degree of agency along the migration pathway. This essay argues principally that the Trump Administration’s Zero Tolerance policies and narrow redefinition of the “legal refugee”, in combination with the anti-immigrant rhetoric espoused by the White House, have created additional barriers which particularly disadvantage female (im)migrants seeking formal protection from IPV. More broadly, the findings of this essay demonstrate that the relationship between power, immigration, and institutionalized force which characterizes the American refugee regime—and the global refugee regime as a whole—contains inherent unequal and gendered dimensions.

In North America, the issue of migration and asylum-seeking has become increasingly visible in the era of President Trump, who has notably referred to undocumented immigrants as “animals”⁷¹ that “infest” American society.⁷² Yet at the global level, a different “epidemic”⁷³

⁷¹Gregory Korte and Alan Gomez, “Trump ramps up rhetoric on undocumented immigrants: ‘These aren’t people. These are animals,’” *USA Today*, May 17, 2018, <https://www.usatoday.com/story/news/politics/2018/05/16/trump-immigrants-animals-mexico-democrats-sanctuary-cities/617252002/>.

⁷²Abigail Simon, “People Are Angry President Trump Used This Word to Describe Undocumented Immigrants,” *Time*, last updated June 19, 2018, <http://time.com/5316087/donald-trump-immigration-infest/>.

⁷³Carmen Vives-Cases, Daniel La Parra, Isabel Goicolea, Emily Felt, Erica Briones-Vozmediano, Gaby Ortiz-Barreda, and Diana Gil-González, “Preventing and addressing intimate partner violence against migrant and ethnic

plagues human society, and drives vulnerable groups, particularly women, to seek asylum: intimate partner violence. Commonly adopted in 2000, the term “intimate partner violence” (hereafter IPV), recognizes that abuse can exist in any type of intimate partner relationship, irrespective of marital status, sexual orientation, or gender.⁷⁴ However, while IPV is perpetrated by both genders, research generally supports that IPV has gendered dimensions;⁷⁵ a collection of studies indicate that women experience greater fear in response to men’s violence than vice versa, and women are more likely to experience negative health consequences of being victimized (including symptoms of depression and post-traumatic stress disorder).⁷⁶

Despite labelling IPV as a threat to national public health,⁷⁷ American institutions have historically neglected to protect two highly vulnerable groups in society: immigrant women and migrants seeking asylum on the basis of IPV. Significantly, female victims in these groups have reported that the issue of immigration status is a central reason for why they did not seek help, nor report abuse, to US authorities.⁷⁸ More broadly, their dilemma is reflective of the unequal, gendered dimensions inherent in the relationship between power, immigration, and institutionalized force. Indeed, as Allsopp argues, a border is simultaneously an “assertion of—and a threat to—men’s historic monopoly” of powerful governance structures and institutions.⁷⁹ It is therefore worthwhile to investigate how President Donald Trump’s restrictive immigration policies, in the broader construct of hegemonic masculinity, have created additional barriers that disadvantage migrants and undocumented immigrants of the female gender from accessing relief and protection from IPV.

minority women: the role of the health sector,” *World Health Organization*, 2014: 2, http://www.euro.who.int/_data/assets/pdf_file/0018/270180/21256-WHO-Intimate-Partner-Violence_low_V7.pdf.

⁷⁴ Ron Wallace, “Domestic Violence and Intimate Partner Violence: What’s The Difference?” *In Public Safety*, October 15, 2015, <https://inpublicsafety.com/2015/10/domestic-violence-and-intimate-partner-violence-whats-the-difference/>.

⁷⁵ Jennifer Langhinrichsen-Rohling, “Controversies Involving Gender and Intimate Partner Violence in the United States,” *Sex Roles* 62 no. 3-4 (2010): online, <https://link-springer-com.proxy.queensu.ca/article/10.1007%2Fs11199-009-9628-2>.

⁷⁶ *Ibid.*

⁷⁷ Elizabeth Reed, “INTIMATE PARTNER VIOLENCE: A GENDER-BASED ISSUE?” *Am J Public Health* 98 no. 2 (2008): online, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2376897/>.

⁷⁸ Angela S. Reina and Brenda J. Lohman, “Barriers Preventing Latina Immigrants from Seeking Advocacy Services for Domestic Violence Victims: A Qualitative Analysis,” *Journal of Family Violence* 30 no. 4 (2015): online, <https://link.springer.com/article/10.1007%2Fs10896-015-9696-8>.

⁷⁹ Jennifer Allsopp, “Agent, victim, soldier son: Intersecting masculinities in the European “refugee crisis”,” in *A Gendered Approach to the Syrian Refugee Crisis*, ed. by Jane Freedman, Zeynep Kivilcim and Nurcan Özgür Baklacioğlu (New York: Routledge, 2017) 160.

Significantly, the findings of this paper may supplement existing scholarly discussion that largely concentrates on the implications of Trump's policies on the socio-political climate of the United States, wherein race, country of origin, or ethnicity are popular units of analysis.⁸⁰ Peer-reviewed sources that primarily investigate the effects of Trump's immigration policies on specific groups of migrants and immigrants (rather than their general implications on race or ethnicity) are scarce. Even less discussed in the scholarly literature is how Trump's Zero Tolerance policy and anti-immigrant rhetoric creates compounding layers of oppression on certain genders, races, and those who have experienced IPV. This could be a consequence of the short time period since Trump's election as President, and the fact that his immigration reforms are still in the process of being implemented. Furthermore, as women comprise approximately half of the undocumented immigrant population, it is worthwhile to explore the relation between gender and Trump's immigration laws, and vulnerable groups seeking formal aid for IPV in the US.⁸¹ As such, both the contemporary political and academic context impresses upon the importance of this investigation. Therefore, this essay hopes to offer a worthwhile supplement to existing literature on Trump's policies and their impact on certain groups, and specifically inspire greater conversation about how Trump's immigration policies affect female immigrants or women seeking asylum protection from IPV.

Specifically, this paper seeks to answer the question, *How have the immigration policies formalized by the Trump Administration and the White House's rhetorical discourse affected existing institutional barriers faced by female migrants or immigrants seeking formal protection from IPV?* To answer this question, this essay employs a structuralist perspective to analyze how American institutions shape immigration policies, and how both of these formal, legally legitimized processes structure the American refugee regime.

Methodological approach

⁸⁰ For instance, refer to "Race and Gender in Immigration: A Continuing Saga With Different Encryptions" by Edward Joaquin and Juanita Johnson-Bailey (2015): <https://onlinelibrary.wiley.com/doi/pdf/10.1002/ace.20133> ; "Passports in the Time of Trump" by Leti Volp (2017): <https://muse.jhu.edu/article/685024>; or "The threat of increasing diversity: Why many White Americans support Trump in the 2016 presidential election" by Brenda Major, Alison Blodorn, and Gregory Major Blascovich, (2018): <https://journals.sagepub.com/doi/abs/10.1177/1368430216677304>.

⁸¹ Ariel G. Ruiz, Jie Zong, and Jeanne Batalova, "Immigrant Women in the United States," *Migration Policy Institute*, March 20, 2015, <https://www.migrationpolicy.org/article/immigrant-women-united-states>.

It is first important to note that in the literature about domestic and intimate partner violence, controversy exists as to whether the IPV is a form of gender violence. Although it is certainly an important issue to discuss, that debate is not the aim of this paper's investigation. This essay advances a viewpoint that agrees with feminist scholars, who argue that male-perpetrated IPV and female victimization can be seen as the exertion of male dominance and control.⁸² For the purposes of this essay, the term IPV (rather than domestic violence) is preferred in order to investigate the effects of US institutions and immigration policies on both married *and* unmarried female migrants and immigrants seeking relief from abusive relationships.

A critical structuralist analysis of American immigration institutions (including governmental policies and laws) may help uncover the socio-structural, economic, and heteropatriarchal factors that exert influence over women's migration experiences and their degree of agency along the migration pathway.⁸³ As Abrego aptly declares, "[w]hen we refuse to...locate the source of the violence in the state and its various social structures, we create a void that then is filled...in ways that can be erroneous and detrimental."⁸⁴ Employing such a lens, then, will uncover how American institutional structures (specifically its legal, judicial, and Immigration and Customs Enforcement institutions) may create barriers to female migrants seeking relief from IPV and constrain their agential power within the refugee/asylum regime. To supplement this approach, a critical discourse analysis of anti-immigrant rhetoric by the Trump Administration will be employed in order to determine how relevant US officials affect the construction of narratives in the U.S. that are especially detrimental to female migrants' access to asylum and IPV. Primary source material, such as political speeches, Tweets, and legal commentary will be analyzed with respect to how these sources further develop and sustain the anti-immigrant sentiment within the American political and social environment. Secondary sources, including a 2018 study of a Latino immigrant community in southeastern United States, will also inform this paper's argumentation.

⁸² Caryn Bell Gerstenberger and Kirk R. Williams, "Gender and Intimate Partner Violence," *Journal of Interpersonal Violence*, December 24, 2012, <https://journals.sagepub.com/doi/abs/10.1177/0886260512468325?journalCode=jiva>.

⁸³ Chie Noyori-Corbett and David P. Moxley, "Inequality of women as a factor influencing migration from countries of origin to the United States and its implications for understanding human trafficking," *International Social Work* 59, no. 6 (2016): 891.

⁸⁴ Leisy J. Abrego, "On silences: Salvadoran refugees then and now," *Latino Studies* 15 no. 1 (2017): 81, <https://search-proquest-com.proxy.queensu.ca/docview/1891616275?pq-origsite=summon>.

By means of the outlined methodological approaches, this paper hypothesizes that the Trump Administration's Zero Tolerance policies and narrow redefinition of the "legal refugee", in combination with the anti-immigrant rhetoric espoused by the White House, have particularly disadvantaged female migrants and immigrants who seek formal protection from intimate partner violence. Before engaging in an analysis of American institutional policies and the contemporary American refugee regime, this essay will first provide a brief historical background on the global and American refugee regimes, their gendered dimensions, and the relation of gender and migration to IPV. Next, Section I discusses pre-Trump era policies that have been identified by scholars as detrimental to women seeking formal help for IPV, particularly in the legal areas of asylum/immigration. In doing so, it will take into account external forces, such as culture shock and gender norms that have been flagged to pose obstacles to female migrants' applications for asylum.⁸⁵ Sections II and III will consider the previously highlighted institutions in the context of the Trump-era in order to determine whether the Trump Administration, through its institutions, legal commentary, and rhetorical discourse, has added additional barriers to female migrants seeking refuge from or formal aid for domestic violence and IPV. In its conclusion, this essay discusses the implications of the discursive and institutional barriers on female (im)migrants in the Trump era.

A review of the global and American refugee regimes, gender, and IPV

Initially formalized by the United Nations in 1951, the global refugee regime consists of a set of humanitarian norms built upon the principle of nonrefoulement, or the obligation for states to not return an individual back to a country where that person encounters a "well-founded fear of persecution".⁸⁶ According to the UN 1951 Convention relating to the Status of Refugees, states are responsible for asylum (the obligation to provide protection for refugees who have reached their territory) and burden-sharing.⁸⁷ The legal definition of a refugee, and the basis on which refugee status can be granted, was further defined in the 1967 Protocol. It stipulates that a refugee is a person unable or unwilling to return back to their home country due to a well-

⁸⁵ Katherine E. Melloy, "Telling Truths: How the REAL ID Act's Credibility Provisions Affect Women Asylum Seekers," *Iowa Law Review* 92 (2007): 660.

⁸⁶ Alexander Betts, "The Normative Terrain of the Global Refugee Regime," *Ethics & International Affairs*, October 2015, <https://www.ethicsandinternationalaffairs.org/2015/the-normative-terrain-of-the-global-refugee-regime/>.

⁸⁷ *Ibid.*

founded fear of persecution “on account of race, religion, nationality, membership in a particular social group, or political opinion.”⁸⁸ As a signatory of the 1976 Protocol, the United States is bound to protect migrants who qualify as refugees, and according to the American Immigration Council, this obligation is further reinforced through its immigration laws.⁸⁹

Despite gender’s historical identification as a variable in American immigration policies, it has not resulted in equal conditions for male and female refugees in applying for asylum. In 1995, the US issued guidelines on gender-based persecution, which distinguishes it as one of the first countries to provide its judges with formal recognition of the gendered nature of persecution, and how persecution itself can occur on account of gender.⁹⁰ Yet, while these guidelines recognize gender harm, they are only binding on US Citizenship and Immigration Services (USCIS) asylum officers, not immigration judges; notably, the latter are charged with adjudicating most asylum applications and may, at their discretion, overturn the decisions of USCIS officers.⁹¹

Moreover, although both the global and American refugee regimes were founded using gender-neutral terms, both regimes have inherent underlying gendered dimensions. Although gender-neutral language forms the basis for the Refugee Convention and the U.S. Refugee Act, their practical application primarily envisages the male refugee,⁹² thereby disadvantaging female migrants applying for asylum. Problematically, harm against women (including sexual violence and IPV) has not been equated with persecution under global and American asylum requirements; its tendency to be perpetrated by private or non-state actors causes the task of producing documentation especially onerous for the asylum applicant.⁹³ Indeed, Freedman

⁸⁸ “Asylum in the United States,” *American Immigration Council*, May 14, 2018,

<https://www.americanimmigrationcouncil.org/research/asylum-united-states>.

⁸⁹ In particular, when a migrant reaches a US border, they are subject to expedited removal, which is the rapid deportation of noncitizens from the US. At this time, however, a person must notify a US official that they fear returning to their country, and immigration authorities will refer them to a “credible” or “reasonable” fear screening process. If the migrant passes the screening interview, they are eligible to apply for asylum. *Ibid.*

⁹⁰ Susan F. Martin and Elizabeth Ferris, “US leadership and the international refugee regime,” *Refuge* 33 no.1 (2017): online,

<http://go.galegroup.com/ps/i.do?p=AONE&u=queensulaw&id=GALE%7CA491909267&v=2.1&it=r&sid=summon>

⁹¹ Aubra Fletcher, “The REAL ID Act: Furthering Gender Bias in U.S. Asylum Law,” *Berkeley Journal of Gender, Law and Justice* 21, no. 1 (2006): 114.

⁹² Fletcher, 112; see also Jared Allen, “WOMEN QUA WOMEN: USING FEMINIST THEORY TO CATALYZE THE GENDER IMMIGRATION DEBATE,” *Georgetown Immigration Law Journal* 32 no. 2 (2018): online, <http://go.galegroup.com.proxy.queensu.ca/ps/i.do?p=LT&u=queensulaw&id=GALE|A545714287&v=2.1&it=r&sid=summon>.

⁹³ Fletcher 113.

argues that this is “particularly acute” in claimants filing for reasons of escaping domestic violence—although these female claimants are unable to secure protection from authorities in their home country, seeking protection from domestic abuse is often considered “irrelevant” to asylum claims.⁹⁴ As a result, an applicant’s documentation must also establish that the harm done by the perpetrator was a consequence of the victim’s status in a particular “social group”.⁹⁵ Therefore, by requiring female applicants to prove that gender-harm is linked to the umbrella term of “particular social group”, the gender-neutral definition of “refugee” does not recognize that gender-motivated harm is itself a valid legal claim for asylum.

Allen attributes the origin of this deficiency to the UN definition of the refugee. He notes that under the UN Refugee definition, to qualify as part of a “particular social group” (PSG), female migrants must demonstrate harm against them that:

- “1) satisfies the standard of persecution;
- 2) occurred on account of one of the five conventional grounds of the refugee definition; with
- 3) a causal nexus between the persecution and that ground.”⁹⁶

As such, female migrants must prove their belonging in a PSG, which is then subject to the discretion of the court.⁹⁷ Therefore, gender-based harm is not equally recognized as a form of persecution under the UN definition in comparison to the other five grounds for asylum.

Other scholars have argued that gender-motivated harm is inadequately recognized in American immigration institutions. Fletcher, for instance, argues that the possibility of defining a social group in exclusively gendered terms is still rejected by political and social forces in the US.⁹⁸ Indeed, the failure of El Salvadoran women and children to achieve recognition as refugees under US law demonstrates the severe difficulties faced by asylum applicants seeking protection from gender-based persecution. On this case, Abrego emphasizes the problematic nexus between heteropatriarchal gendered ideals generated by the American intervention in El Salvador and El Salvadoran gang violence against women, which in turn prompted a mass exodus of El Salvadoran women and children to the US (many of whom, on their journey to America, became further victimized by gendered violence).⁹⁹ In the American system, therefore, the burden is

⁹⁴ Jane Freedman, “Gender and Asylum in International Law—The Geneva Convention Revisited”, in *Gendering the International Asylum and Refugee Debate: Second Edition* (New York: Palgrave MacMillan, 2015), 78.

⁹⁵ Fletcher 113.

⁹⁶ Jared Allen.

⁹⁷ *Ibid.*

⁹⁸ Fletcher, 116; a similar argument is also made by Jared Allen.

⁹⁹ Abrego, 77.

placed on victims of gender-motivated harm to demonstrate that their claims for refuge are applicable to the legally recognized qualifications for refugee status. Yet despite instances in which American judges have interpreted violence against women and children to qualify for asylum under the PSG grounds¹⁰⁰, not all courts/adjudicators have chosen to interpret migrants who primarily seek protection from gender-motivated harm as members of a PSG. Accordingly, Abrego claims that if the applicant “cites sexual assault as evidence of having suffered persecution, the institutionalized character of the crime may go unrecognized, thereby disqualifying the abuse as a claim for political asylum.”¹⁰¹

A gendered critique of the global and American refugee regimes indicates that the issue of IPV in contemporary societies intersects with the gendered aspects of migration and asylum. Indeed, prior to departure, gender-based violence (such as IPV) often serves as a push factor for women to flee Global South countries for protection in Global North countries such as the US.¹⁰² Compared to other groups, female migrants (due to their vulnerability and economic disempowerment) are at a higher risk of experiencing violence—particularly sexual abuse and trafficking—as they travel to their destination country.¹⁰³ In 2018, Human Rights Watch reported that most female migrants seeking refuge in the US left their home countries due to gender-based violence, and many had experienced violence along the migration pathway.¹⁰⁴ In their precarious position upon arriving in their destination country, these women are also most vulnerable to experiencing domestic violence/IPV in comparison to other groups in American society.¹⁰⁵ The extensive obstacles faced by female migrants who are seeking physical, mental and economic security therefore expose the ways in which negligent and/or apathetic state structures perpetuate the cycle of violence and oppression against women.

Pre-Trump Institutional Obstacles for Female (Im)migrants Seeking Relief From IPV

¹⁰⁰ Maureen Meyer and Elyssa Pachico, “Fact Sheet: U.S. Immigration and Central American Asylum Seekers,” *Washington Office on Latin America*, February 1, 2018, <https://www.wola.org/analysis/fact-sheet-united-states-immigration-central-american-asylum-seekers/>.

¹⁰¹ Abrego, 78-79.

¹⁰² Noyori-Corbett and Moxley, 891.

¹⁰³ *Ibid.*

¹⁰⁴ “In the Freezer: Abusive Conditions for Women and Children in US Immigration Holding Cells,” *Human Rights Watch*, February 2018, <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>.

¹⁰⁵ Monica Scott, Shannon Weaver and Akiko Kamimura, “Experiences of Immigrant Women Who Applied for Violence Against Women Act (VAWA) SelfPetition in the United States: Analysis of Legal Affidavits,” *Diversity and Equality in Health and Care* 15 no. 4 (2018): 145, <http://diversityhealthcare.imedpub.com/experiences-of-immigrant-women-who-applied-for-violence-against-women-act-vawa-self-petition-in-the-united-states-analysis-of-lega.pdf>.

Prior to the Trump era, specific immigration laws within the US, such as the the Violence Against Women Act II (VAWA II) and the Real ID Act have either fortified barriers to migrant women seeking asylum on the basis of IPV or have failed to protect specific groups of immigrant women. While the VAWA II provides relief for married women, widows, or women who filed divorce on the grounds of domestic violence and IPV in the past two years, it does not offer protection for unmarried women or immigrant women who are not legally married.¹⁰⁶ As a consequence, the law's failure to protect these female immigrants contributes to their precarious position in seeking formal help for IPV. Furthermore, the REAL ID Act of 2005 holds that US immigration court adjudicators must assess the overall consistency between the applicant's written and oral statements, and can therefore find the applicant "not credible" because of their failure to mention rape or sexual assault in an earlier interview.¹⁰⁷ While this is a barrier to applicants of all genders, other clauses in the REAL ID Act's "credibility" provisions render this act especially disadvantageous to women. One such provision is the demeanor clause, which instructs the adjudicator to assess "demeanor, candor or responsiveness."¹⁰⁸ Problematically, this clause fails to account for the psychological implications of trauma, in which emotional numbness, dysregulation and amnesia are common coping mechanisms for survivors.¹⁰⁹ Moreover, in American society, engendered cultural standards of emotion expect higher levels of emotional expression, or affect, in female applicants compared to male applicants. As such, a lack of emotional affect in a female claimant at a court hearing is significantly more detrimental to her credibility compared to a male claimant in the same situation.¹¹⁰

In sum, important American immigration and legal institutions prior to Trump's inauguration have either failed to protect unmarried and undocumented female immigrants (under the VAWA II) or have imposed a high evidentiary and "credibility" burden on the applicant (evidenced by

¹⁰⁶ Indira Balram, "The Evolving, Yet Still Inadequate, Legal Protections Afforded Battered Immigrant Women" *University of Maryland Law Journal of Race, Religion, Gender & Class* 387 (2005), 407, <https://digitalcommons.law.umaryland.edu/rrgc/vol5/iss2/10>.

¹⁰⁷ Melloy, 640.

¹⁰⁸ *Ibid.*

¹⁰⁹ These implications are widely accepted as common symptom in the psychological and the psychiatric academic communities. A number of scholarly works corroborate this. For example, refer to, "Understanding the Effects of Sexual Violence," *Samuel Merritt University*, https://www.samuelmerritt.edu/sexual_violence/effects; see also, Thomas Ehring and Dorothea Quack, "Emotion Regulation Difficulties in Trauma Survivors: The Role of Trauma Type and PTSD Symptom Severity," *Behaviour Therapy* 41 (2010): https://journals-scholarsportal-info.proxy.queensu.ca/pdf/00057894/v41i0004/587_erditsttapss.xml.

¹¹⁰ Melloy summarizes the issue well: "With insensitivity and thoughtlessness, judges may use the demeanor and inconsistent-statements provisions of the REAL ID Act to send the women that the U.S. asylum law is supposed to protect back to their persecutors." (In "Telling Truths: How the REAL ID Act's Credibility Provisions Affect Women Asylum Seekers," *Iowa Law Review* 92 (2007): 675.)

the REAL ID Act). In particular, the REAL ID Act enables adjudicators to grant refugee status and asylum in the US according to hegemonic gender norms and cultural biases that collectively shape officials' expectations about how a female survivor of IPV should behave. Moreover, these engendered cultural norms—whether prevalent within a female immigrant's community or within the American society at large—pose additional social obstacles that female migrants must confront in their efforts to seek formal aid in the US. As a consequence, the disadvantaged position of female migrants and immigrants in the American refugee regime is reflective of inherent issues at the global level, in which inadequate legal provisions for gender-motivated harm prevent female asylum claimants from easily acquiring refugee status on the grounds of gender violence and/or IPV.

Apart from institutional obstacles, 'battered' female immigrants also face informal cultural barriers in the US which impede or discourage the reporting of IPV to authorities. Generally, immigrant women generally face greater challenges to finding relief from domestic violence and IPV compared to other identity groups. Multiple compounding factors, including language barriers, social isolation, lack of financial resources, and inability access to social services have contributed to this unfortunate reality.¹¹¹ Social networks are furthermore instrumental to constructing an immigrant's experiences of the host country and the level of support they receive for relief from IPV.¹¹² In particular, an unsupportive social network can frame the process of seeking formal help as undesirable and or even insurmountable to the victim. Within this setting, the cultural norms of the individual's immigrant communities can perpetuate stigma towards reporting IPV and/or leaving an abusive relationship. Significantly, if domestic violence and/or IPV is not recognized as a crime in the immigrant's homeland or it is normalized within her (im)migrant community, she may not be aware that IPV is a criminal offence in the US—knowledge that could have empowered her to seek formal help.¹¹³ As a result, language barriers and the cultural norms which structure the gender roles and relationships of the female (im)migrant may pose as additional social obstacles to seeking formal help.

¹¹¹“ The Facts on Immigrant Women and Domestic Violence,” *Futures Without Violence*, accessed November 30, 2018, https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Immigrant.pdf.

¹¹² As gendered critiques of Migrant Social Network Theory point out, social networks of immigrants are imbued with power, and are not indifferent to gender or gender roles. This was discussed by Marin Beck, in “Gendered Critiques of Migration Social Network Theories,” (presentation, POLS 485 Lecture on Migration Theories, Kingston, ON, September 18, 2018).

¹¹³ Balram, 390.

II. Zero Tolerance and strengthening barriers to female (im)migrants' access to formal help for IPV

A critical structuralist analysis of Trump-era immigration policies reveals how the current administration has built upon and created new barriers that obstruct women and vulnerable groups from easily accessing protection by the American refugee regime and its social and legal services. Further complications faced by women and vulnerable groups include prolonged separation from family members at the border, higher risk of exposure to human trafficking along the border, inhumane conditions in federal detention, restricted access to healthcare for detained pregnant women (including abortion services), and most significantly, a reduced chance for acquiring asylum protection under American legislation.

Since the announcement of the Zero Tolerance policy in April 2018 (which included the goal of prosecuting 100 percent of migrants illegally crossing the US border), mass numbers of undocumented migrant families were detained, criminally prosecuted, and separated from each other.¹¹⁴ This is a remarkable change; under the pre-2016 Operation Streamline prior to Trump's presidency, migrant parents traveling with children were not subject to criminal prosecution and prolonged separation.¹¹⁵ Unsurprisingly, then, Human Rights Watch claims that the harms associated with the American state's prosecution of undocumented immigrants are compounded by the Zero Tolerance policy and the Trump Administration's efforts to separate migrant families¹¹⁶, and these harms are particularly impactful on vulnerable groups. In the case of Central American asylum seekers, for example, Abrego claims that the Trump administration has not only failed to protect applicants but has continued to violate their human rights¹¹⁷ through increased criminal prosecution of undocumented immigrants for misdemeanours and separating migrant families at the US border. Notably, restrictive immigration policies increase the risk of female migrants' exposure to human trafficking networks, as traffickers capitalize on the disadvantaged position of women within the patriarchal global system. In particular, they exploit women's vulnerability and their desperation to acquire better economic, emotional, and physical security within their destination countries.¹¹⁸ This offers an explanation for why human

¹¹⁴ Q&A: Trump Administration's "Zero-Tolerance" Immigration Policy," *Human Rights Watch*.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

¹¹⁷ Leisy J. Abrego, 79.

¹¹⁸ Chie Noyori-Corbett and David P. Moxley, 898.

trafficking has increased along the US-Mexico border since the implementation of Trump's Zero Tolerance policy.¹¹⁹

Furthermore, the process of seeking relief from IPV has become increasingly difficult under the harsh border policies implemented by the Trump Administration. The Trump Administration appears to ignore or devalue the impact of their unforgiving detention policy on battered women or survivors of sexual violence, who must already cope with the repercussions of IPV. As emphasized by the National Coalition Against Domestic Violence, pregnancy, other reproductive health complications, and neurological disorders are only a few possible effects of IPV.¹²⁰ Problematically, the White House's proposed 2019 budget indicates that pregnant mothers in detention facilities may be further restricted from access to abortion care, some of whom may have been subject to gender violence, domestic violence and IPV, and rape. In 2017, CNN reported that an undocumented teenager in a federal shelter for minors had to undergo a rigorous legal battle against the Trump Administration in order to obtain an abortion¹²¹, which is only one example of the legal difficulties female immigrants face in their attempts to access social services in the Trump era. Under the new 2019 budget, female undocumented immigrants and migrants detained in ICE centres *may lose access to abortion entirely*, as Section 219 of Trump's budget stipulates that, "None of the funds appropriated by this Act for U.S. Immigration and Customs Enforcement shall be used to require any person to perform, or facilitate...abortion." Although Section 220 further acknowledges that, "Nothing in the preceding section shall remove the obligation...to provide escort services necessary for a female detainee to receive such service outside the detention facility," it stipulates that ICE officials may decline a detainee's request for transportation to an abortion site on the grounds of their "philosophical" or religious beliefs,¹²² thereby denying them access to abortion services in

¹¹⁹ Holly Yan, "The deadly toll of human smuggling and trafficking in the US," *CNN*, July 28, 2017, <https://www.cnn.com/2017/07/28/us/migrant-deaths-and-human-trafficking-by-the-numbers/index.html>.

¹²⁰ "Statistics," *NCADV*, last accessed December 4, 2018, <https://ncadv.org/statistics>.

¹²¹ Ariane de Vogue, "Undocumented immigrant teen obtains abortion after legal battle," *CNN*, October 25, 2017, <https://www.cnn.com/2017/10/25/us/undocumented-teen-immigrant-abortion-case/index.html>.

¹²² Tina Vasquez, "Trump Wants ICE Agents to Determine Who Gets Abortion Care," *Rewire.News*, February 14, 2018, <https://rewire.news/article/2018/02/14/trump-wants-ice-agents-determine-gets-abortion-care/>. Section 220 written in full: "Nothing in the preceding section shall remove the obligation of the Assistant Secretary of Homeland Security for U.S. Immigration and Customs Enforcement to provide escort services necessary for a female detainee to receive such service outside the detention facility: Provided, That nothing in this section in any way diminishes the effect of section 219 intended to address the philosophical beliefs of individual employees of U.S. Immigration and Customs Enforcement."

practice. This creates further obstacles for female migrants seeking relief from IPV, particularly those who are pregnant as a result of rape by their abusive partners. Evidently, the restrictive legal barriers associated with policies of zero tolerance have physical and mental health implications in which women are especially affected, especially those who have experienced trauma and abuse such as IPV.

In 2005, Balram argued that for immigrant battered women, US immigration laws present one of the greatest obstacles they face for finding relief.¹²³ Such barriers, outlined in Section I, are buttressed by the efforts of the Trump Administration to narrow the definition of eligibility for asylum under US immigration law. In particular, the recent ruling by former A.G. Jeff Sessions established that asylum applications based on IPV/domestic violence are insufficient grounds for approval for refuge in the US.¹²⁴ Beyond demonstrating that the applicant's home country is willing or unable to help them, asylum applicants must also prove that "the government condoned the private actions [of gang or domestic violence] or demonstrated an inability to protect the victims."¹²⁵ Before this ruling, immigration courts had interpreted—in some cases—that Central American women escaping abusive partners qualified for asylum, on account of the constraining social and structural norms in their home countries. Earlier this year, Sessions decided that the Board of Immigration Appeal's 2014 decision was wrongly held, and any future rulings on these matters granting such protections would be overturned.¹²⁶ The case in question, *Matter of A-R-C-G-*, had established a precedent for qualifying domestic violence claims as valid for eligible asylum protection.¹²⁷ Now, asylum seekers must prove that their membership in a PSG is independent of the alleged harm (of IPV), and that "their persecutors harmed them on account of their membership in that group rather than for personal reason, and establish that the government protection from such harm in their home country is so lacking that their persecutors' actions can be attributed to the government."¹²⁸ Consequently, it is even more difficult (if not pointless) to seek protection on the basis of IPV due to the Sessions'

¹²³ Balram, 391.

¹²⁴ Office of the Attorney General, *Matter of A-B-, Respondent*, 27 I&N Dec. 320 (2018), <https://www.justice.gov/eoir/page/file/1070866/download>.

¹²⁵ Tal Kopan, "Trump admin drops asylum protections for domestic violence victims" *CNN Politics*, June 11, 2018, <https://www.cnn.com/2018/06/11/politics/jeff-sessions-asylum-decision/index.html>.

¹²⁶ Ibid

¹²⁷ Laura Gottesdiener and John Washington, "They're Refugees, Fleeing Gang Violence and Domestic Abuse. Why Won't the Trump Administration Let Them In?" *The Nation*, November 28, 2018, <https://www.thenation.com/article/trump-asylum-gangs-domestic-violence/>.

¹²⁸ Tal Kopan.

classification of the harm against the applicant as personal/private, not on the basis of persecution against a PSG.

Sessions' decision to roll back the interpretation of PSGs to no longer include victims of gang or domestic violence by non-state actors significantly disadvantages Central American applicants, especially Central American women. Since 2014, the application for asylum on the basis of gender-based persecution and IPV is one predominantly sought by female Central American asylum seekers.¹²⁹ This coincides with the reality that Central America and Mexico, as opposed to other areas of the world, are currently the sites of heightened gender-based crises.¹³⁰ In so doing, Sessions changed the approach by immigration courts towards the interpretation of PSGs approving asylum to become more restrictive, to the significant detriment of a particular group: Central American female 'battered' migrants. Evidently, gender and race are embedded in how the Administration frames its immigration reforms, and racialized immigrant women, particularly Central American females seeking protection from IPV, are devalued within the American refugee regime.

Moreover, the Trump-era practice of US Immigration and Customs Enforcement (ICE) arrests in American courthouses have instilled fear of deportation within immigrant victims of violence (including domestic violence and IPV) and witnesses, which has further discouraged battered women from seeking help from the American legal system. Graber cites a survey about IPV conducted in Washington, in which 81 percent of respondents reported heightened concerns about going to court to seek help on matters of domestic violence and IPV, and 73 percent of those surveyed expressed increased doubt about contacting police due to their fear of ICE.¹³¹ In this way, the Trump administration has exploited access to American legal institutions to suit the aims of his immigration policies to the significant detriment of mostly-female immigrant victims of IPV. By establishing IPV as a private and individualized (or "personal") issue, American immigration institutions such as the Justice Department have turned a blind eye to the underlying

¹²⁹ Katie Benner and Caitlin Dickerson, "Sessions Says Domestic and Gang Violence Are Not Grounds for Asylum," *The New York Times*, July 11, 2018. <https://www.nytimes.com/2018/06/11/us/politics/sessions-domestic-violence-asylum.html>.

¹³⁰ "Women on the Run," *UNHCR*, accessed December 6, 2018, <https://www.unhcr.org/en-us/publications/operations/5630f24c6/women-run.html>.

¹³¹ Lena Graber, "Preserving Access to Justice for Immigrants in State Court Systems," *Criminal Justice* 32 no. 4 (2018), <http://link.galegroup.com/apps/doc/A545697774/AONE?u=queensulaw&sid=AONE&xid=a1ba705b>.

patriarchal norms and socio-structural realities that perpetuate gender-based violence and IPV, which is one of the primary reasons for why female migrants flee in the first place.

III. Constructing a climate of fear: The White House's institutionalization of racialized and feminized discrimination

A critical discourse approach is employed in this section to analyze how the discursive strategies used by political elites and institutions in the Trump era have established a dominant narrative that has sought to legitimize policymaking that restricts granting asylum to certain claimants. Importantly, this approach uncovers the way in which gender operates as “a primary way of signifying relationships of power”.¹³² Within patriarchal American society, the female/feminine gender has been systemically positioned as less powerful and subordinate to the male/masculine gender. The patriarchal and colonial character of American institutions further privileges the white, male voice and the valuation of the male-dominated public sphere over other elements of society.

In particular, the structural dominance of (white) men as an instrument of control over (racialized) women is reinforced by the legal and political discourse of the Trump Administration, which dictates the degree of access to the American refugee regime on the basis of gender and race. Within this current climate, the White House's pervasive anti-immigrant rhetoric deepens social stratifications on the basis of citizenship status. Their dominant, anti-immigrant narrative aims to legitimize the ways in which American institutions facilitate American citizens' easier access to formal protection from IPV compared to “illegal” immigrants, who are already more likely to experience such violence. Unsurprisingly, a 2018 study found that anti-immigrant sentiment has occluded undocumented Latina women from seeking relief for domestic violence/IPV.¹³³

Powerful institutions, such as the American immigration courts and the Justice Department, reinforce hegemonic discourse and help to structure “normal” social relations and

¹³² Joan Scott, “Gender: A Useful Category for Historical Analysis,” *American Historical Review* 91 no. 5, (1986): 1053–75, quoted in Mary Hawkesbury, “Engendering Political Science: An Immodest Proposal,” *Politics and Gender* 1, no.1 (2005): 143, https://journals-scholarsportal-info.proxy.queensu.ca/pdf/1743923x/v01i0001/141_epsaip.xml.

¹³³ Rebecca Rodriguez, Lillianne R. Macias, Reyna Perez-Garcia, Griselda Landeros and Aida Martinez, “Action Research at the Intersection of Structural and Family Violence in an Immigrant Latino Community: a Youth-Led Study,” *Journal of Family Violence* 33, no. 8 (2018), online, <https://link.springer.com/article/10.1007%2Fs10896-018-9990-3>.

gender roles. Gorman argues that Sessions' re-interpretation of what legally qualifies as a refugee is an act of "interpretive control", in which legal discourse surrounding the change has socially constructed Central American people as illegally within US borders.¹³⁴ Sessions justified his decision to disqualify IPV as an eligible grounds for asylum protection through the use of legal commentary that frames IPV as a personal/private issue rather than one faced by a particular group (although this essay has shown that such a decision targets a particular group: female Central American immigrants). His treatment of IPV as a "private" and "personal" issue reaffirms the hegemonic narrative about violence against women, which frames sexual violence and gender-motivated harm (within which IPV can be included) as "private acts" and not a violation of human rights.¹³⁵ Sessions' legal commentary therefore reinforces the normalization of the private sphere as feminine and the political/public sphere as masculine,¹³⁶ a narrative that has historically resulted in the portrayal of the persecution of women as "invisible or irrelevant" within the refugee regime at both the global and national levels.¹³⁷ In doing so, his discourse has pushed productive conversation about combatting IPV to the peripheral, private sphere, which has made it more difficult for battered female immigrants to seek formal help, as they already face considerable social and institutional barriers. Furthermore, apart from Sessions' re-definition of refugee, the White House has remained silent on solving the issue of immigrants experiencing higher rates of IPV/domestic violence compared to American citizens. Conceivably, the deliberate absence of positive or productive discourse about how to support undocumented 'battered' female immigrants contributes to the invisibility of a demographic already discouraged from seeking formal help in Trump's America.

For immigrant women, furthermore, the widespread, negative impacts of the White House's anti-immigrant narrative is compounded by the President's discursive position towards women and gender-based violence. Both Trump's informal and formal commentary on the topic serves to further discourage female migrants from attempting to access American institutions for protection against IPV. Infamously, Trump has declared, "[When I meet beautiful women, I feel

¹³⁴ Cynthia S. Gorman, "Redefining refugees: Interpretive control and the bordering work of legal categorization in U.S. asylum law," *Political Geography* 58 (2017): 36, https://journals-scholarsportal-info.proxy.queensu.ca/pdf/09626298/v58icomplete/36_rricatlcual.xml.

¹³⁵ Ibid.

¹³⁶ Jane Freedman, "A Gendered Approach to Refugee and Asylum Studies," in *Gendering the International Asylum and Refugee Debate: Second Edition*, 19.

¹³⁷ Jane Freedman, "Gender and Asylum in International Law—The Geneva Convention Revisited," in *Gendering the International Asylum and Refugee Debate: Second Edition*, 78-79.

that I can] grab them by the pussy...[I] can do anything”)¹³⁸. His tendency to support the accused (male) in recent sexual assault allegations made by women against American political figures reinforces the interpretation that he will take the side of the white, powerful male if their position of authority is brought into question. Despite assuring reporters that he is “totally opposed to domestic violence,”¹³⁹ he tweeted before a 2018 interview that,

“Peoples lives are being shattered and destroyed by a mere allegation. Some are true and some are false. Some are old and some are new. There is no recovery for someone falsely accused - life and career are gone. Is there no such thing any longer as Due Process?”¹⁴⁰

Trump’s articulation of an “innocent until proven guilty” view towards domestic violence largely focuses on ruinous effects of “false accusations” on the abuser’s life, and not the impact of the action on the victim.¹⁴¹ As such, this standpoint coheres with his outright skepticism towards several women’s allegations of sexual assault against Supreme Court Justice Nominee Brett Kavanaugh.¹⁴² On November 3, Trump tweeted,

“Can you imagine if [Kavanaugh] didn’t become a Justice of the Supreme Court because of...disgusting False Statements. What about the others?”

In reaction to the Kavanaugh hearing, NYU Professor Ruth Ben-Ghiat responded,

“This is about white men keeping their power, as Trump said quite openly. It transcends any particular hearing or appointment. It distills the need to control bodies and decide on their right to autonomy.”¹⁴³

Trump’s arguably misogynistic opinion is comparable to his derogatory position on immigrants of colour, another vulnerable group that he seeks to regulate, control, and potentially render obsolete under Zero Tolerance. Although Trump proclaimed October as National Domestic Violence Awareness Month in 2017, his address makes no mention of undocumented immigrant women, who are face a higher risk of experiencing IPV in the US than American

¹³⁸ Ben Jacobs, Sabrina Siddiqui and Scott Bixby, “‘You can do anything’: Trump brags on tape about using fame to get women,” *The Guardian*, October 2016, <https://www.theguardian.com/us-news/2016/oct/07/donald-trump-leaked-recording-women>.

¹³⁹ Callum Borchers, “Why Trump needed to condemn domestic violence in his own words,” *The Washington Post*, February 14, 2018, https://www.washingtonpost.com/news/the-fix/wp/2018/02/14/why-trump-needed-to-condemn-domestic-violence-in-his-own-words/?utm_term=.a1028b503033

¹⁴⁰ Ibid.

¹⁴¹ See his February 2018 tweet quoted in, Callum Borchers, “Why Trump needed to condemn domestic violence in his own words.”

¹⁴² Allie Malloy, “Trump unleashes on Kavanaugh accuser,” *CNN Politics*, September 22, 2018, <https://www.cnn.com/2018/09/21/politics/donald-trump-brett-kavanaugh-accuser-tweets/index.html>.

¹⁴³ Ruth Ben-Ghiat, Twitter post, September 27, 8:15am, https://twitter.com/ruthbenghiat/status/1045331086828556290?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1045331086828556290&ref_url=https%3A%2F%2Fwww.cnn.com%2F2018%2F09%2F27%2Fopinions%2Fkavanaugh-hearing-in-tweets-opinion%2Findex.html.

citizens. Notably, his language largely concentrates on American nationals, rather than conveying a universal appeal (*italics are added for emphasis*):

“During National Domestic Violence Awareness Month, I encourage *Americans* affected by domestic violence to seek help. Your neighbors, places of worship, community, and *Nation* stand ready to support you.”¹⁴⁴

Of course, this presupposes—and expects—that victims of IPV are American citizens, who are therefore able to access formal support without fear of deportation.

Additionally, Sessions’ legal commentary is narratively supported by White House’s championing of the white “legal” male American citizen as desirable and more deserving of American services above other groups, including women. Trump’s hierarchical positioning of race in American society is exemplified by the Administration’s recent release of a racially-charged video that portrays Central Americans as “cop-killers” who are “invading the country.”¹⁴⁵ In doing so, Trump represents non-white migrants (particularly Central American migrants) as non-American who form part of the dangerous, racial Other. Furthermore, in the case of white Americans, it can be inferred that men’s life chances in American society are more highly valued compared to those of women. This is discernible from the President’s consistent, vocal support of the accused white male perpetrator of sexual assault, including Supreme Court Nominee Brett Kavanaugh¹⁴⁶ and his resistance to siding with the affected female victim on multiple occasions, as discussed previously. Therefore, Trump’s inflammatory vocalization of “zero tolerance” towards “illegal aliens”¹⁴⁷ further discourages affected women in these communities—who already face legal additional challenges to seeking American legal and social services under the current Trump Administration—to break their silence and escape abusive situations. As such, ‘battered’ female Central Americans are especially disadvantaged within the

¹⁴⁴ Donald J. Trump, “President Donald J. Trump Proclaims October 2017 as National Domestic Violence Awareness Month,” *Proclamations*, September 30, 2017 <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-proclaims-october-2017-national-domestic-violence-awareness-month/>.

¹⁴⁵ Stephen Collinson, “Trump shocks with racist new ad days before midterms,” *CNN Politics*, November 1, 2018, <https://www.cnn.com/2018/10/31/politics/donald-trump-immigration-paul-ryan-midterms/index.html>. The ad is viewable at the top of this article.

¹⁴⁶ Accounts of Trump supporting an accused white male in positions of power are abundant; for instance, he supported Kavanaugh at the expense of Christine Blasey-Ford (see his Tweet in endnote 70), and are further exemplified by this CNN article by Holly Yan and Nicole Chavez, “Trump says it’s a ‘scary time’ for men. Here are the stats on false sexual assault claims,” *CNN*, October 3, 2018, <https://www.cnn.com/2018/10/03/health/sexual-assault-false-reports/index.html>.

¹⁴⁷ Donald J. Trump, “Remarks by President Trump on the Illegal Immigration Crisis and Border Security,” *Remarks*, November 1, 2018. <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-illegal-immigration-crisis-border-security/>.

patriarchal American system, as they face additional barriers seeking formal help for IPV on account of their gender in addition to their race. His statement, "It is a very scary time for young men in America,"¹⁴⁸ renders invisible the terrifying experiences of (mostly female) victims of IPV in the US, who may also fear deportation and the significant reduction of their life chances.

Despite rampant anti-immigrant sentiment aiming to legitimize the restrictive 'zero-tolerance' policy in the US, counternarratives to Trump's rhetoric are intelligible in popular discourse. Since the Kavanaugh hearing and Sessions' ruling on domestic violence for immigration courts, several opinion pieces have speculated about why Trump is apathetic towards undocumented immigrant victims of domestic violence. These articles have generally commented on the linkages between his anti-immigrant sentiment, misogynistic comments in a variety of public situations, and his standpoint on the Kavanaugh nomination. In *The New Yorker*, for example, Winter connected Trump's tendency to blame external parties (including immigrants) for domestic problems to generate fear of the racial 'Other' within the American populace with the technique of gaslighting, an instrument of coercion and control that is frequently employed by perpetrators of IPV.¹⁴⁹ Moreover, following First Lady Melania Trump's recent choice to wear a jacket with the statement, "I really don't care, do u?" to a migrant detention facility, the popular counter-slogan "I really do care" was trending on Twitter,¹⁵⁰ inspiring public criticisms of the Trump Administration's apathetic response to its objectionable practice of separating migrant families.

Nevertheless, within these counternarratives, as in the predominantly white #MeToo movement, the voices of racialized and undocumented immigrants remain largely unheard. This can be partially attributed to the White House's fear-mongering/blaming the racial 'Other' and its social construction of "illegality". For instance, the effects of the White House's political and legal anti-women and anti-immigrant discourse have redirected conversation from addressing issues of immigrant women's rights and their access of protections against IPV to issues of legitimacy and eligibility. The social assignment of individuals or groups with certain racial

¹⁴⁸ Holly Yan and Nicole Chavez.

¹⁴⁹ Jessica Winter, "The Language of the Trump Administration Is the Language of Domestic Violence," *The New Yorker*, June 11, 2018, <https://www.newyorker.com/culture/cultural-comment/the-language-of-the-trump-administration-is-the-language-of-domestic-violence>.

¹⁵⁰ Heidi Stevens, "Melania's frosty jacket inspires a we-really-do-care movement," *The Seattle Times*, June 22, 2018, <https://www.seattletimes.com/opinion/melanias-frosty-jacket-inspires-a-we-really-do-care-movement/>.

profiles as “illegally present” in American society generates the stereotyping of certain people as “illegal”, regardless of their actual legal status.¹⁵¹ These groups are generally POC, and recently, as evidenced by Trump’s racially-charged video release, they are primarily Central American. Under these conditions, women immigrants of colour who fit the profile of socially-defined “illegality” may feel unable to access legal and formal institutions, as their agential status is undermined by questions of their legitimacy in the country. Moreover, social discourse about the legality of women’s status as immigrants may further perpetuate the (unfounded) belief that female immigrants do not deserve the same access to legal/institutional protection against IPV compared to other women in America. As such, the female (im)migrant is both bombarded by shame-inducing questions about the “believability” of her experiences with sexual or domestic violence and general suspicion about the “credibility” and “legality” of her right to access social services and the protection of the American refugee regime. Abrego compares the asylum application process to rape trials, as both demand that the female victim to retell her story of trauma and neither system guarantees that her testimony will be believed.¹⁵² Consequently, the stakes are extremely high for a female migrant to establish the “credibility” of her claims, as it is also tied to her credibility as an asylum applicant—if her claims judged as illegitimate, she loses her legitimacy for asylum and her place of refuge in the US.

It is therefore quite conceivable that the White House’s anti-immigrant, anti-women rhetoric has exacerbated the occurrence of adverse health consequences in immigrant women. The physical health consequences for serving as a target of the Trump Administration are exemplified by research that found a significant increase in preterm birth rates following Trump’s inauguration, particularly among foreign-born Latina women.¹⁵³ This is one of several recent studies discovering a linkage between racial profiling and negative health consequences on a politically targeted group.¹⁵⁴ Therefore, in a similar way that issues of IPV have been relegated to the “private” sphere under Sessions’ ruling, the voices of female immigrants who fit

¹⁵¹ René D. Flores, Ariela Schachter, “Who are the “Illegals”? The Social Construction of Illegality in the United State,” *American Sociological Review* (2018), <https://doi-org.proxy.queensu.ca/10.1177/0003122418794635>.

¹⁵² Abrego 78.

¹⁵³ Erika Stallings, “The Effects of Trump’s Anti-Immigrant Rhetoric Are Starting to Show in Preterm Birth Rates,” *Rewire.News*, November 2, 2018, <https://rewire.news/article/2018/11/02/the-effects-of-trumps-anti-immigrant-rhetoric-are-starting-to-show-in-preterm-birth-rates/>.

¹⁵⁴ Erika Stallings, “The Effects of Trump’s Anti-Immigrant Rhetoric Are Starting to Show in Preterm Birth Rates,” *Rewire.News*, November 2, 2018, <https://rewire.news/article/2018/11/02/the-effects-of-trumps-anti-immigrant-rhetoric-are-starting-to-show-in-preterm-birth-rates/>.

the “illegal” racial profile are silenced, and their bodies are pushed to the fringes of American society while being held under constant threat of deportation and racial discrimination.

Evidently, the Trump Administration’s anti-immigrant narrative takes traditional gendered stereotypes of migrants to an extreme level, as it uniformly portrays female migrants as victims swept up in the flow of “mostly criminals” to the border and male migrants as dangerous aggressors.¹⁵⁵ Trump’s portrayal of immigrant women as agentless victims and Sessions’ association of IPV with the private sphere asserts patriarchal and racialized hierarchies that structurally aim to restrict the ability of female (im)migrants—especially women of colour—to seek protection in the American refugee regime. Particularly, Trump’s “[y]ou can do anything [to women]” discourse advances the notion of the powerful white male’s ability control and manipulate female bodies. This ideological position underlies both the federal practice of detaining female migrants (a vector through which ICE officers exert greater control over the access to abortion) and Sessions’ overturning of the 2014 precedent that established women fleeing IPV qualified for asylum protection. Only within these restrictive patriarchal and gender-specific boundaries are female migrants able to exert their agency.

Evaluating the overall implications of Trump-era institutional and social barriers on female (im)migrants seeking protection from IPV

Overall, Trump’s Zero Tolerance policy, Session’s recent redefinition of ‘refugee’ under US immigration law, and the White House’s new budget priorities implicate the construction of additional obstacles occluding female (im)migrants from acquiring formal relief and protection from IPV. As demonstrated in Sections I and II, the discretion of American immigration adjudicators is a key component of the immigration regime, which has a significant effect on which applicants are granted asylum protection under US law. Problematically, the clauses for determining a refugee’s “credibility” within the REAL ID Act create opportunities for adjudicators to reproduce detrimental social and cultural norms, which have been powerfully constructed by the current administration, onto the subject of the female applicant. Furthermore, it is possible that the anti-immigrant political leanings of Sessions and the Trump government have bled into adjudicators’ subjective interpretations of which groups can qualify for asylum. As such, this discourse may have contributed to the enforcement of narrower asylum eligibility

¹⁵⁵ Allsopp, 156.

criteria in American law to ensure more restrictive and conservative decisions. Rather than challenging hegemonic patriarchal narratives, which may intrinsically serve as push factors for women's migration in the first place, the Trump Administration has instead reified these norms within their current immigration policies. Sessions' ruling that IPV is a private act—and therefore an invalid claim for asylum—can be interpreted to align with traditional scripts about violence against women, which has been significantly disadvantaged female applicants. Consequently, these legal measures have disproportionately impacted female migrants, particularly those fleeing Central America, who are seeking protection on the basis of IPV or gender-motivated harm. In sum, Sections I-III have attempted to show that harm against female immigrants, namely IPV, is rhetorically and legally discounted or devalued under the protective provisions of American federal institutions and in the definition of what constitutes a legal refugee in US immigration law.

More broadly, the findings of this paper reveal that the feminization of violence and the structural oppression of women, often associated with the Global South, are issues that are not only outside of US borders; rather, they pervade American institutions as identifiable barriers to female migrants seeking protection within the American refugee regime. When the discursive, social context of Trump's opinions towards the #MeToo movement and immigrants of colour are analysed, it is possible to determine how gender, race, and IPV intersect under the current Zero Tolerance policy. The Trump Administration's preoccupation with controlling vulnerable groups' access to social services and victim-blaming (revealed through the Secs. 219 and 220 of the 2019 budget and Trump's standpoint on women and sexual violence) can be understood to pose uniquely challenging barriers to female (im)migrants of colour in the current political climate. Indeed, the implications of Trump's Zero Tolerance policies on female undocumented immigrants and asylum seekers communicates to these groups that his government has Zero Tolerance for those seeking formal help from domestic violence and IPV. Therefore, the previously outlined institutional barriers faced by female (im)migrants and the social construction of anti-immigrant, anti-woman discourse by the Trump Administration places female (im)migrants in a highly disadvantaged position for seeking help for and protection from IPV. Central American women, who are statistically the most likely to seek asylum protection on the basis of IPV, face additional barriers in the American refugee regime on account of their race compared to female applicants who 'pass' as White. In conclusion, the Trump-era American

refugee regime has placed female migrants and undocumented female immigrants in the US at a disproportionately disadvantaged position for seeking formal protection and relief against IPV.

Bibliography

- Abrego, Leisy J. "On silences: Salvadoran refugees then and now." *Latino Studies* 15 no. 1 (2017), 78-35.
<https://search-proquest-com.proxy.queensu.ca/docview/1891616275?pq-origsite=summon>.
- Allen, Jared. "WOMEN QUA WOMEN: USING FEMINIST THEORY TO CATALYZE THE GENDER IMMIGRATION DEBATE." *Georgetown Immigration Law Journal* 32, no. 2 (2018): 217-236.
<http://go.galegroup.com/ps/i.do?p=AONE&u=queensulaw&id=GALE%7CA545714287&v=2.1&it=r&sid=summon>.
- Allsopp, Jennifer. "Agent, victim, soldier son: Intersecting masculinities in the European "refugee crisis"." In *A Gendered Approach to the Syrian Refugee Crisis*. Edited by Jane Freedman, Zeynep Kivilcim and Nurcan Özgür Baklacioğlu. New York: Routledge, 2017.
- "Asylum in the United States." *American Immigration Council*. May 14, 2018.
<https://www.americanimmigrationcouncil.org/research/asylum-united-states>.
- Balram, Indira K. "The Evolving, Yet Still Inadequate, Legal Protections Afforded Battered Immigrant Women." *University of Maryland Law Journal of Race, Religion, Gender and Class* (2005): 387-410. Downloaded pdf.
- Benner, Katie and Caitlin Dickerson. "Sessions Says Domestic and Gang Violence Are Not Grounds for Asylum." *The New York Times*. July 11, 2018.
<https://www.nytimes.com/2018/06/11/us/politics/sessions-domestic-violence-asylum.html>.
- Betts, Alexander. "The Normative Terrain of the Global Refugee Regime." *Ethics & International Affairs*. October 2015.
<https://www.ethicsandinternationalaffairs.org/2015/the-normative-terrain-of-the-global-refugee-regime/>.
- Blitzer, Jonathan. "Jeff Sessions Is Out, But His Dark Vision for Immigration Policy Lives On." *The New Yorker*. Last updated November 8, 2018.
<https://www.newyorker.com/news/news-desk/jeff-sessions-is-out-but-his-dark-vision-for-immigration-policy-lives-on>.
- Borchers, Callum. "Why Trump needed to condemn domestic violence in his own words," *The Washington Post*, February 14, 2018, https://www.washingtonpost.com/news/the-fix/wp/2018/02/14/why-trump-needed-to-condemn-domestic-violence-in-his-own-words/?utm_term=.a1028b503033.

- Ehring, Thomas and Dorothea Quack. "Emotion Regulation Difficulties in Trauma Survivors: The Role of Trauma Type and PTSD Symptom Severity." *Behaviour Therapy* 41 (2010): 587-598. https://journals-scholarsportal-info.proxy.queensu.ca/pdf/00057894/v41i0004/587_erditsttapss.xml.
- Fletcher, Aubra. "The REAL ID Act: Furthering Gender Bias in U.S. Asylum Law." *Berkeley Journal of Gender, Law and Justice* 21, no. 1 (2006): 111-131. <https://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1249&context=bglj>.
- Freedman, Jane. *Gendering the International Asylum and Refugee Debate: Second Edition*. New York: Palgrave MacMillan, 2015.
- Gerstenberger, Caryn Bell, and Kirk R. Williams. "Gender and Intimate Partner Violence." *Journal of Interpersonal Violence*. December 24, 2012. <https://journals.sagepub.com/doi/abs/10.1177/0886260512468325?journalCode=jiva>.
- Gottesdiener, Laura and John Washington. "They're Refugees, Fleeing Gang Violence and Domestic Abuse. Why Won't the Trump Administration Let Them In?" *The Nation*, November 28, 2018. <https://www.thenation.com/article/trump-asylum-gangs-domestic-violence/>.
- Graber, Lena. "Preserving Access to Justice for Immigrants in State Court Systems," *Criminal Justice* 32 no. 4 (2018): online. <http://link.galegroup.com/apps/doc/A545697774/AONE?u=queensulaw&sid=AONE&xid=a1ba705b>.
- "In the Freezer: Abusive Conditions for Women and Children in US Immigration Holding Cells." *Human Rights Watch*. February 2018. <https://www.hrw.org/report/2018/02/28/freezer/abusive-conditions-women-and-children-us-immigration-holding-cells>.
- Jacobs, Ben, Sabrina Siddiqui and Scott Bixby. "'You can do anything': Trump brags on tape about using fame to get women." *The Guardian*. October 2016. <https://www.theguardian.com/us-news/2016/oct/07/donald-trump-leaked-recording-women>.
- Joaquin, Edward, and Juanita Johnson-Bailey. "Race and Gender in Immigration: A Continuing Saga With Different Encryptions" *New Directions for Adult and Continuing Education* 146 (2015): 75-85. doi: <https://doi.org/10.1002/ace.20133>.
- Kopan, Tal. "Trump admin drops asylum protections for domestic violence victims" *CNN Politics*. June 11, 2018. <https://www.cnn.com/2018/06/11/politics/jeff-sessions-asylum-decision/index.html>.

- Korte, Gregory and Alan Gomez. "Trump ramps up rhetoric on undocumented immigrants: 'These aren't people. These are animals.'" *USA Today*. Last updated May 17, 2018. <https://www.usatoday.com/story/news/politics/2018/05/16/trump-immigrants-animals-mexico-democrats-sanctuary-cities/617252002/>.
- Langhinrichsen-Rohling, Jennifer. "Controversies Involving Gender and Intimate Partner Violence in the United States." *Sex Roles* 62 no. 3-4 (2010): online. <https://link.springer.com.proxy.queensu.ca/article/10.1007%2Fs11199-009-9628-2>
- Martin, Susan F. and Elizabeth Ferris. "US leadership and the international refugee regime." *Refuge* 33, no.1 (2017): online. <http://go.galegroup.com/ps/i.do?p=AONE&u=queensulaw&id=GALE%7CA491909267&v=2.1&it=r&sid=summon>.
- Melloy, Katherine E. "Telling Truths: How the REAL ID Act's Credibility Provisions Affect Women Asylum Seekers." *Iowa Law Review* 92, no. 2 (2007): 637-676. *Academic OneFile*, <http://link.galegroup.com/apps/doc/A161557418/AONE?u=queensulaw&sid=AONE&xid=1b979b7e>.
- Meyer, Maureen and Elyssa Pachico. "Fact Sheet: U.S. Immigration and Central American Asylum Seekers." *Washington Office on Latin America*. February 1, 2018. <https://www.wola.org/analysis/fact-sheet-united-states-immigration-central-american-asylum-seekers/>
- Noyori-Corbett Chie, and David P. Moxley. "Inequality of women as a factor influencing migration from countries of origin to the United States and its implications for understanding human trafficking." *International Social Work* 59, no. 6 (2016): 890-903. <https://doi.org/10.1177/0020872815580047>.
- Office of the Attorney General, *Matter of A-B-, Respondent*, 27 I&N Dec. 320 (2018), <https://www.justice.gov/eoir/page/file/1070866/download>.
- Pierce, Sarah, Jessica Bolter, and Andrew Selee. "U.S. Immigration Policy Under Trump: Deep Changes and Lasting Impacts." *Migration Policy Institute*. July 2018. Downloaded pdf.
- Reed, Elizabeth. "INTIMATE PARTNER VIOLENCE: A GENDER-BASED ISSUE?" *Am J Public Health* 98, no. 2 (2008): online. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2376897/> .
- Reina, Angela S. and Brenda J. Lohman. "Barriers Preventing Latina Immigrants from Seeking Advocacy Services for Domestic Violence Victims: A Qualitative Analysis." *Journal of Family Violence* 30, no. 4 (2015): online. <https://link.springer.com/article/10.1007%2Fs10896-015-9696-8>.

- Rodriguez, Rebecca, R. Lillianne Macias, Reyna Perez-Garcia, Griselda Landeros, Aida Martinez. "Action Research at the Intersection of Structural and Family Violence in an Immigrant Latino Community: a Youth-Led Study." *Journal of Family Violence* 33, no. 8 (2018). Online. <https://link.springer.com/article/10.1007%2Fs10896-018-9990-3>.
- Ruiz, Ariel G. Jie Zong, and Jeanne Batalova. "Immigrant Women in the United States." *Migration Policy Institute*. March 20, 2015. <https://www.migrationpolicy.org/article/immigrant-women-united-states>.
- Scott, Monica, Shannon Weaver and Akiko Kamimura. "Experiences of Immigrant Women Who Applied for Violence Against Women Act (VAWA) Self Petition in the United States: Analysis of Legal Affidavits." *Diversity and Equality in Health and Care* 15, no. 4 (2018): 145-150. <http://diversityhealthcare.imedpub.com/experiences-of-immigrant-women-who-applied-for-violence-against-women-act-vawa-self-petition-in-the-united-states-analysis-of-lega.pdf>.
- Simon, Abigail. "People Are Angry President Trump Used This Word to Describe Undocumented Immigrants." *Time*. Last updated June 19, 2018. <http://time.com/5316087/donald-trump-immigration-infest/>.
- "Statistics," *NCADV*. Last accessed December 4, 2018. <https://ncadv.org/statistics>.
- Stallings, Erika. "The Effects of Trump's Anti-Immigrant Rhetoric Are Starting to Show in Preterm Birth Rates." *Rewire.News*, November 2, 2018. <https://rewire.news/article/2018/11/02/the-effects-of-trumps-anti-immigrant-rhetoric-are-starting-to-show-in-preterm-birth-rates/>.
- "The Facts on Immigrant Women and Domestic Violence." *Futures Without Violence*. Accessed November 30, 2018. https://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Immigrant.pdf.
- Trump, Donald J. "President Donald J. Trump Proclaims October 2017 as National Domestic Violence Awareness Month." *Proclamations*. September 30, 2017. <https://www.whitehouse.gov/presidential-actions/president-donald-j-trump-proclaims-october-2017-national-domestic-violence-awareness-month/>
- Understanding the Effects of Sexual Violence." *Samuel Merritt University*. Last accessed December 4, 2018. https://www.samuelmerritt.edu/sexual_violence/effects.
- Vasquez, Tina. "Trump Wants ICE Agents to Determine Who Gets Abortion Care." *Rewire.News*. February 14, 2018. <https://rewire.news/article/2018/02/14/trump-wants-ice-agents-determine-gets-abortion-care/> .

Vives-Cases, Carmen Daniel La Parra, Isabel Goicolea, Emily Felt, Erica Briones-Vozmediano, Gaby Ortiz-Barreda, and Diana Gil-González. “Preventing and addressing intimate partner violence against migrant and ethnic minority women: the role of the health sector.” *World Health Organization* 2014.

http://www.euro.who.int/_data/assets/pdf_file/0018/270180/21256-WHO-Intimate-Partner-Violence_low_V7.pdf.

Wallace, Ron. “Domestic Violence and Intimate Partner Violence: What’s The Difference?” *In Public Safety*. October 15, 2015. <https://inpublicsafety.com/2015/10/domestic-violence-and-intimate-partner-violence-whats-the-difference/>.

“Women on the Run,” *UNHCR*. Accessed December 6, 2018.

<https://www.unhcr.org/en-us/publications/operations/5630f24c6/women-run.html>.

Yan, Holly. “The deadly toll of human smuggling and trafficking in the US.” *CNN*.

July 28, 2017. <https://www.cnn.com/2017/07/28/us/migrant-deaths-and-human-trafficking-by-the-numbers/index.html>.

Pre

Sexual Exploitation & Abuse by UN Peacekeepers

Critical Briefing

Caitlin Spiegel

This briefing provides an overview of the development and effectiveness of UN Sexual Abuse and Exploitation (SEA) policy. Beginning with an explanation of how instances of SEA by UN personnel were discovered within peacekeeping operations of the 1990s. Then transitioning to the current objectives of SEA policy and the institutions designed to execute them. Each element of the policy is then critically examined based on its fulfillment of local needs and whether offenders are accountable for their actions. Addressed throughout the analysis is the role of gender and gendered binaries. Concluding policy recommendations focus on the integration of SEA policy with the principles of Security Council Resolution 1325 as well as establishing legal accountability for all UN personnel, regardless of their nationality.

Overview of Sexual Exploitation & Abuse within the UN

While the issue of sexual exploitation and abuse (SEA) did not gain public attention until the 1990s, it is not unrealistic to suggest that this type of victimization has occurred since the advent of UN peacekeeping. The current discussion of SEA by UN peacekeepers is framed around the following definitions:

The term “sexual exploitation” means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes...the term “sexual abuse” means the actual or threatened physical intrusion of a sexual nature, whether by force or under unequal or coercive conditions.¹⁵⁶

The first discovery of widespread SEA was the abuse of prostitutes by contingents of the UN Transitional Authority in Cambodia (UNTAC) in 1993. The repercussions for peacekeepers engaging in these activities were minimal.¹⁵⁷ Two years later, UN peacekeepers were found to be complicit in the sex trafficking of women in Bosnia-Herzegovina, and again the UN’s response was largely dismissive.¹⁵⁸ Overall, the UN did not seriously address the prevalence of SEA within

¹⁵⁶ Annan, Kofi A. “Special Measures for Protection from Sexual Exploitation and Sexual Abuse.” *United Nations Secretariat*, 9 October 2003: 1.

¹⁵⁷ Searle, Louise and Jasmine-Kim Westendorf. “Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Response, and Future Directions.” *International Affairs* 93, no. 2 (2017): 366-367.

¹⁵⁸ *Ibid.*

peacekeeping missions until the “West Africa Scandal” of 2002. The West African Scandal refers to the abuse and exploitation of “women and girls in refugee camps in Guinea, Liberia, and Sierra Leone.”¹⁵⁹ Shortly after the West African Scandal, UN Secretary General Kofi Annan published bulletin ST/SGB/2003/13, also referred to as the ‘zero-tolerance bulletin.’ In the bulletin, Annan notes that any form of SEA is prohibited and outlines the responsibility of UN and national authorities to investigate and prevent SEA.¹⁶⁰ As this issue has become known to the peacekeeping sector, prolific SEA has been discovered within many UN missions. Notable reports on this topic following the zero-tolerance bulletin include the Zeid Report by Secretary General Special Advisor Prince Zeid Ra’ad Al-Hussein and “No One to Turn To” published by Save the Children.¹⁶¹ Today, the United Nations does not deny that SEA is a grave issue within the organization and in 2013 SEA was declared “the most significant risk to UN peacekeeping missions.”¹⁶²

UN Institutions

Many institutions are in place to address SEA and its detrimental effect on the UN peacekeeping mandate. It is worth noting that various pieces of historical legislation outline special protections for women and children. These documents include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the 1990 Convention on the Rights of the Child, and the Covenant on Civil and Political Rights.¹⁶³ According to the United Nations SEA taskforce, SEA policies are based on three principles: zero-tolerance, accepting responsibility, and restoring people's confidence in the UN.¹⁶⁴ Literature is distributed to UN peacekeepers in order to explain and justify these principles. For example, a pamphlet published in 2010 justifies the employment of a zero-tolerance policy by emphasizing that the majority of locals peacekeepers interact with are from vulnerable sectors and thus peacekeepers exercise a

¹⁵⁹ Ibid 367.

¹⁶⁰ Annan, Kofi A. “Special Measures for Protection from Sexual Exploitation and Sexual Abuse.” *United Nations Secretariat*, 9 October 2003: 1.

¹⁶¹ Martin, Veronika. “Literature Review: Complaint Mechanisms and Handling of Exploitation and Abuse.” *Humanitarian Accountability Partnership*, 2010; UN General Assembly, A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations, A/59/710 (24 March 2005), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/59/710; Csáky, Corinna. *No One to Turn To: The under-reporting of child sexual exploitation and abuse by aid workers and peacekeepers*. (London: Save the Children, 2008).

¹⁶² Searle & Westendorf, “SEA in Peace Operations,” 365.

¹⁶³ Murphy, Ray. “An Assessment of UN Efforts to Address Sexual Misconduct by Peacekeeping Personnel.” *International Peacekeeping* 13, no. 4 (2006): 535.

¹⁶⁴ “SEA Frequently Asked Questions.” *UN Prevention of Sexual Exploitation and Abuse Task Force*, March 2010.

significant power imbalance over them.¹⁶⁵ According to the UN, it does not matter whether the exercise of power is intentional on the part of the peacekeeper, it is still considered exploitation. The UN further argues that the most effective way to accept responsibility and restore confidence in the UN is through victim support. To this end, the General Assembly passed the “United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel” (A/RES/62/214).¹⁶⁶ This resolution gives the United Nations two years to provide support to SEA victims, with the exception of direct financial compensation.

In order to fulfill these guiding principles, the UN has a three-pronged strategy: prevention of misconduct, enforcement of UN standards of conduct, and remedial action.¹⁶⁷ This strategy materializes on the local level as the Conduct and Discipline Team (CDT). The CDT is embedded within each peacekeeping mission and tasked with receiving and handling accusations of SEA by peacekeepers.¹⁶⁸ Once an allegation is made the CDT first determines whether there was a potential violation of the UN Standards of Conduct. If the CDT determines the accusation requires investigation, it is then recorded in the Misconduct Tracking System (MTS) database. In order to conduct the investigation, the allegation is classified by the UN Office of Internal Oversight Services (OIOS) as either a Category 1 or Category 2. For the purposes of this briefing it is important to note that Category 1 includes “all cases of sexual exploitation and abuse” and Category 2 includes “sexual harassment [and] abuse of authority.”¹⁶⁹ If the investigation produces evidence of SEA by a peacekeeper, the individual is then repatriated to their home country.

Critical Evaluation of Institutions

We must consider why sexual exploitation and abuse is so prevalent in UN peacekeeping missions, there are multiple points of failure to be analyzed. Beginning with the norms and attitudes established among UN personnel prior to their arrival to a duty station. Pre-deployment education focuses on the victimization of the peacekeeper. In her article on gendered peacekeeping

¹⁶⁵ Ibid.

¹⁶⁶ United Nations General Assembly Resolution, “United Nations Comprehensive Strategy on Assistance and Support to Victims of Sexual Exploitation and Abuse by United Nations Staff and Related Personnel” (A/RES/62/214), <https://undocs.org/A/RES/62/214>.

¹⁶⁷ “Standards of Conduct,” United Nations Peacekeeping, accessed October, 2018, <https://peacekeeping.un.org/en/standards-of-conduct>.

¹⁶⁸ “Complaints,” United Nations Peacekeeping, accessed October, 2018, <https://conduct.unmissions.org/enforcement-complaints>.

¹⁶⁹ Ibid

economies, Kathleen Jennings outlines how UN peacekeeping personnel are told “scare stories” which frame the UN personnel as vulnerable targets for the local population.¹⁷⁰ These anecdotes include, for example, the high risk of contracting sexually transmitted diseases. Underlying this narrative is the creation of the contradiction that local populations are to be both “feared and pitied.”¹⁷¹ In relation to sex with the local population, particularly local women, this binary relies on two gendered stereotypes. First, that local women are vulnerable and lack the agency to deny solicitations from peacekeepers. Secondly, and conversely, that local women are calculating and powerful in their ability to use sexuality to take advantage of peacekeepers. While these stereotypes may be contradictory, they often exist simultaneously in the peacekeeping environment.¹⁷²

The prevalence of SEA is not only impacted by the peacekeeper’s perception of locals, but also the peacekeeper’s perception of the SEA policy. Rules and mechanisms put in place to prevent SEA are seen by some peacekeepers as an infringement on their personal freedoms.¹⁷³ This sentiment is exemplified by literature from the the UN SEA taskforce. Distributed material appears to address a reader that is extremely resistant to the UN SEA policy. For example, one hypothetical question accuses the UN of demanding peacekeepers be “celibate” during their deployment, querying, “Are UN personnel expected to be celibate for the entire time they are on mission?”¹⁷⁴ This feeling that a peacekeeper’s choice to engage in sexual activity with a local community member is a private matter and does not impact the peacekeeping mission can lead to the vilification of those charged with enforcing SEA policy, such as the CDT office.¹⁷⁵ Overall, these negative attitudes toward both the local population and the SEA policy result in the customary practice of not reporting misconduct.

Refocusing outside the UN compound and within the local community, victims face many obstacles in making allegations. The CDT’s responsibility is to transform overarching UN guidelines for reporting SEA into tangible systems within the local community.¹⁷⁶ Strategies include educating the public on SEA policy and the purpose of the CDT office as well as creating

¹⁷⁰ Jennings, Kathleen M. “Service, Sex, and Security: Gendered Peacekeeping Economies in Liberia and the Democratic Republic of the Congo.” *Security Dialogue* 45, no. 4 (2014): 320.

¹⁷¹ *Ibid* 321.

¹⁷² *Ibid*.

¹⁷³ “SEA Frequently Asked Questions.” *UN Prevention of Sexual Exploitation and Abuse Task Force*, March 2010.

¹⁷⁴ *Ibid*.

¹⁷⁵ Martin, “Literature Review,” 11.

¹⁷⁶ “Complaints.” *United Nations Peacekeeping*, 2018.

effective mechanisms to receive allegations.¹⁷⁷ In 2010 the UN Inter-Agency Standing Committee (IASC) reviewed the implementation of SEA policy in peacekeeping missions. IASC discovered that both local and UN personnel were largely uninformed about SEA policy.¹⁷⁸ These results indicate the UN's failure to educate individuals in a manner that is widespread and accessible.¹⁷⁹ On the subject of accessibility, reporting mechanisms have also been critiqued within their local contexts.¹⁸⁰ Individual case studies reveal individuals are deterred from making allegations due to the negative connotation "complaints" have in their culture.¹⁸¹ Other factors which may deter reporting include local stigma associated with sexual assault, fear of retaliation if allegations are not kept anonymous, and the visibility of UN-complaint mechanisms.¹⁸² The primary policy failure is that overarching SEA mandates handed down by the UN are not adapted to best serve local communities.¹⁸³

These critiques of SEA policy implementation at the local mission site level are just one piece of the puzzle in addressing SEA in UN peacekeeping. The SEA policy itself is a further area of concern as the UN problematically uses the term to encompass a wide spectrum of acts. Searle and Westendorf argue that the UN operationalized definition of SEA can be divided into four categories: opportunistic abuse, planned, sadistic abuse, transactional sex, and networked SEA.¹⁸⁴ It is therefore important to distinguish between types of SEA because they each have different motivations and repercussions. While the United Nations has previously established different categories of SEA, Searle and Westendorf show that these distinctions have subsequently been abandoned and not meaningfully integrated into policy.¹⁸⁵ Regardless of the act, the UN hands down the same consequences for all substantiated claims of SEA by peacekeepers.¹⁸⁶ This uniformity ignores the important nuances in within types of SEA, such as the level of agency in

¹⁷⁷ Ibid.

¹⁷⁸ IASC, "Global Review of Protection from Sexual Exploitation and Abuse by UN, NGO, IOM and IFRC Personnel" (July 1, 2010), <https://interagencystandingcommittee.org/protection-sexual-exploitation-and-abuse/documents-public/iasc-global-review-protection-sexual>.

¹⁷⁹ Searle & Westendorf, "SEA in Peace Operations," 380.

¹⁸⁰ Martin, "Literature Review," 7.

¹⁸¹ Ibid 11.

¹⁸² Ibid 7.

¹⁸³ Ibid 14.

¹⁸⁴ Searle & Westendorf, "SEA in Peace Operations," 368.

¹⁸⁵ Ibid 368.

¹⁸⁶ Kanetake, Machiko. "Whose Zero Tolerance Counts? Reassessing Zero Tolerance Policy Against Sexual Exploitation and Abuse by UN Peacekeepers." *International Peacekeeping* 17, no. 2 (2010): 203.

women who experience planned, sadistic abuse versus that of those who engage in sex work.¹⁸⁷ Consequently, the response to SEA has focused on punishing the individual rather than addressing the larger institutional factors that foster SEA in peacekeeping environments.¹⁸⁸

As an example, the distinctiveness of sex work within the SEA framework is enhanced when considering the peacekeeping economy. A peacekeeping economy is defined as “activity that would not occur or be profitable without the international presence of UN peacekeepers.”¹⁸⁹ As mentioned previously, Jennings argues that peacekeeping economies operate within a gendered binary. She demonstrates this by examining the employment of individuals in sex work, domestic service, and private security for peacekeepers. These services are defined as feminine, whereas the work of peacekeepers is classified as masculine. The feminine classification implies that locals who engage in transactional sex with peacekeepers are completely powerless.¹⁹⁰ Recall that the UN justifies their zero-tolerance policy for a similar reason. Transactional sex within peacekeeping economies, much like SEA in general, is much more complex than the UN’s portrayal. The previously mentioned level of agency is particularly salient in this case. Women who defined sex work as their chosen profession expressed hostility towards SEA policy for labeling them as victims.¹⁹¹ Even in cases where individuals did not prefer to engage in sex work, they were still reluctant to support SEA policy because transactional sex was a primary source of income.¹⁹² Regardless of the circumstances, it is impossible to ignore how transactional sex is woven into peacekeeping economies.

Beyond the hurdles of policy implementation on-site and the structural issues with the policy framework itself, one of the major challenges for SEA policy is prosecution. The UN is able to conduct an administrative investigation, collect evidence, and repatriate the offender.¹⁹³ Any repercussions after repatriation are the sole responsibility of the home country. Troops Contributing Countries (TCC) are encouraged by the UN to submit a legal framework for SEA, however not all TCCs have done so.¹⁹⁴ Most notably, three members of the Security Council

¹⁸⁷ Searle & Westendorf, “SEA in Peace Operations,” 371.

¹⁸⁸ *Ibid* 382.

¹⁸⁹ 315.

¹⁹⁰ *Ibid* 320.

¹⁹¹ *Ibid* 319.

¹⁹² *Ibid* 319.

¹⁹³ Kanetake, “Who’s Zero Tolerance Policy,” 205.

¹⁹⁴ “Standards of Conduct.”

Permanent Five, the United Kingdom, Russia, and China, have not submitted frameworks.¹⁹⁵ Even within the command structures for military contingents, discipline for SEA is “uncoupled” from military authority.¹⁹⁶ The lack of accountability from the immediate command structure indicates that preventing and punishing SEA is not a priority for all TCCs.¹⁹⁷ This, compounded with the fact that there are many other types of UN personnel that are not even accountable to military command, highlights a vast legal gap in addressing SEA.

Conclusion

Taking into consideration that the problem of SEA within the UN is widespread and multifaceted, ranging from policy construction to implementation, reform must begin at the institutional level. One recommendation is that SEA policy be reframed by the UN as an external human rights issue, rather than an internal administrative one.¹⁹⁸ The United Nations already contributes significant resources to issues related to the structural aspects SEA, particularly in relation to the victimization of women and children. This focus is mandated through major UN resolutions including Security Council Resolution 1325 on Women, Peace, and Security and Sustainable Development Goal Five: Gender Equality.¹⁹⁹ On the surface, reframing an issue may appear too simplistic or non-tangible. However, it is my opinion that a shift of SEA policy from human resources to human rights, thus invoking other policy frameworks such as UNSCR 1325 and SDG 5, will be a vital foundation for any other reforms. Following this normative shift, the United Nations must focus on the legal accountability for substantiated allegations of SEA by UN personnel. Many significant TCCs have not submitted legal frameworks to prosecute citizens accused of SEA. If the home country is unwilling to hold people accountable, then the host country should be empowered to do so. This suggestion is not a new in academic literature or policy and draws inspiration from the NATO model of shared legal jurisdiction.²⁰⁰ Central to both policy recommendations is sending the message to perpetrators that the UN takes SEA within the organization seriously.

¹⁹⁵ Ibid.

¹⁹⁶ Kanetake, “Who’s Zero Tolerance Policy,” 205.

¹⁹⁷ Ibid 201.

¹⁹⁸ Searle, “SEA in Peace Operations,” 380.

¹⁹⁹ United Nations Security Council Resolution 1325, (S/RES/1325 31 October 2000), [https://undocs.org/S/RES/1325\(2000\)](https://undocs.org/S/RES/1325(2000)); United Nations General Assembly Resolution “Transforming our world: the 2030 Agenda for Sustainable Development,” (A/RES/70/1 21 October 2015), <https://undocs.org/A/RES/70/1>

²⁰⁰ Boom, Rembert. “Introductory Note to United Nations Security Council Resolution 2272 & Secretary-General Report on Special Measures on Protection from Sexual Exploitation and Sexual Abuse.” *International Legal Materials* 55, no. 4 (2016): 2.

Bibliography

- Annan, Kofi A. "Special Measures for Protection from Sexual Exploitation and Sexual Abuse." *United Nations Secretariat*, 9 October 2003.
- Boom, Rembert. "Introductory Note to United Nations Security Council Resolution 2272 & Secretary-General Report on Special Measures on Protection from Sexual Exploitation and Sexual Abuse." *International Legal Materials* 55, no. 4 (2016): 756-758.
- "Complaints,." United Nations Peacekeeping, accessed October, 2018, <https://conduct.unmissions.org/enforcement-complaints..>
- Jennings, Kathleen M. "Service, Sex, and Security: Gendered Peacekeeping Economies in Liberia and the Democratic Republic of the Congo." *Security Dialogue* 45, no. 4 (2014): 313-330.
- Kanetake, Machiko. "Whose Zero Tolerance Counts? Reassessing Zero Tolerance Policy Against Sexual Exploitation and Abuse by UN Peacekeepers." *International Peacekeeping* 17, no. 2 (2010): 200-214.
- Martin, Veronika. "Literature Review: Complaint Mechanisms and Handling of Exploitation and Abuse." *Humanitarian Accountability Partnership*, 2010.
- Murphy, Ray. "An Assessment of UN Efforts to Address Sexual Misconduct by Peacekeeping Personnel." *International Peacekeeping* 13, no. 4 (2006): 531-546.
- "SEA Frequently Asked Questions." *UN Prevention of Sexual Exploitation and Abuse Task Force*, March 2010.
- Searle, Louise and Jasmine-Kim Westendorf. "Sexual Exploitation and Abuse in Peace Operations: Trends, Policy Response, and Future Directions." *International Affairs* 93, no. 2 (2017): 365-387.
- "Standards of Conduct,." United Nations Peacekeeping, accessed October, 2018, <https://peacekeeping.un.org/en/standards-of-conduct.>
- United Nations Security Council Resolution 1325, (S/RES/1325 31 October 2000), [https://undocs.org/S/RES/1325\(2000\)](https://undocs.org/S/RES/1325(2000))
- United Nations General Assembly Resolution "Transforming our world: the 2030 Agenda for Sustainable Development," (A/RES/70/1 21 October 2015), <https://undocs.org/A/RES/70/1>
- UN General Assembly, A comprehensive strategy to eliminate future sexual exploitation and abuse in United Nations peacekeeping operations, A/59/710 (24 March 2005), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/59/710; : 6.

Csáky, Corinna. No One to Turn To: The under-reporting of child sexual exploitation and abuse by aid workers and peacekeepers. (London: Save the Children, 2008).

IASC, “Global Review of Protection from Sexual Exploitation and Abuse by UN, NGO, IOM and IFRC Personnel” (July 1, 1010),
<https://interagencystandingcommittee.org/protection-sexual-exploitation-and-abuse/documents-public/iasc-global-re>

Pre amble

The Suppression of Canadian Guilt: Genocide

Tyler Legg

This essay argues that the Canadian state has committed genocide against its Indigenous peoples, and that the state is aware of its past crimes and has avoided indictments of genocide by deliberately creating narrow definitions of genocide that are non-binding in the Canadian case. This essay first examines the disparities between the legal definitions of genocide held by the United Nations and Canadian government, and then compares those definitions to a basis of primarily 20th century historical evidence surrounding claims of genocide. Having found that what occurred in Canada constitutes as genocide according to the UN but not under Canadian law, this essay goes on to examine the deliberate exclusion of certain UN definition principles from Canadian law and the resistance of Canada towards UN definitions. This essay argues that Canadian law offers a deliberately narrowed definition of genocide because the state seeks to avoid indictments of genocide that might cause fiscal burdens and an upheaval of the Pearsonian Peacekeeping national mythology that permeates Canadian culture and morality.

Introduction

‘Genocide’ has been a contested term ever since it was invented by Dr. Raphael Lemkin in 1943²⁰¹. The discrepancies found within definitions of genocide have important moral and legal implications, especially with regards to countries that have potentially committed genocide. Canada is one of these countries, having been accused of committing state-sponsored genocide against its Indigenous inhabitants using the Indian Residential School (IRS) system, forced sterilization campaigns, and the ‘60s Scoop.’²⁰² Many of these accusations have gained traction using evidence brought forth by Canada’s Truth and Reconciliation Commission (TRC), which attempted to raise awareness around the history of the IRS system. Most notably, the TRC exposed the IRS system’s modern legacy of “disparities that condemn many Aboriginal people to shorter,

²⁰¹ James Hughes, “Genocide,” In *The Routledge Handbook of Ethnic Conflict*, 2nd ed, (London: Routledge, Taylor & Francis Group, 2016), 119-38

²⁰² David B. MacDonald, “Canada’s History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,” *Journal of Genocide Research* 17, no. 4 (2015): 411-31.

poorer, and more troubled lives” and “cultural genocide [which] has left most Aboriginal languages on the verge of extinction.”²⁰³

It is important to note that while some also indict Canada of ethnic cleansing (the mass transferal of an ethnic group from one place to another and the erasure of their cultural footprint upon their homeland²⁰⁴), many Canadians are unaware of the distinction between ethnic cleansing and genocide and sometimes use the two interchangeably²⁰⁵. Thus, this paper will focus on accusations of genocide as they are more prevalent. It is also important to note that this paper will primarily focus upon events that occurred within the 20th century, and thus it will not analyze more obvious examples of genocide such as the frontier killings, biological warfare, and massacres that decimated Indigenous populations in the early stages of colonization²⁰⁶. The genocidal nature of recent events is highly disputed, and carries more moral gravity and relevance than the events of the distant past.

This essay seeks to answer the question of why the Canadian government has adopted a weaker and more narrowed definition of genocide than that provided by the United Nations Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG). The answer shall be attained by first comparing Canadian and CPPCG definitions of genocide and then demonstrating that the Canadian government’s historical use of assimilation tactics throughout the 20th century was genocidal as defined by the CPPCG, but not under Canadian law. After examining the process by which the Canadian government pushed for a narrower definition during the negotiation of the CPPCG, this essay shall argue that the Canadian state’s deliberate narrowing of an already exclusive definition of genocide was done with the goal of preventing fiscal reparations and upsets within Canadian national identities and mythologies that would come as a result of the Canadian state being found guilty of genocide against its Indigenous peoples.

Legal Definitions

²⁰³ Truth and Reconciliation Canada, *Canada’s Residential Schools: The Legacy* (Winnipeg: Truth and Reconciliation Commission of Canada, 2015), 5.

²⁰⁴ John McGarry, "Expulsions," lecture, Chernoff AUD, Kingston, ON, October 3, 2018.; Erin K Jenne, "The causes and consequences of ethnic cleansing," In *The Routledge Handbook of Ethnic Conflict*, 2nd ed, (London: Routledge, Taylor & Francis Group, 2016), 110-18.

²⁰⁵ John McGarry, " Genocide," lecture, Chernoff AUD, Kingston, ON, September 26, 2018.

²⁰⁶ Andrew Woolford and Jeff Benvenuto, "Canada and colonial genocide," *Journal of Genocide Research* 17, no. 4 (2015): 373-90.

Genocide is recognized as a method of managing diversity within a state by abolishing said diversity via the systematic destruction of members of a certain ethnic group²⁰⁷. The main contested issue in defining genocide is what constitutes destruction; is it purely physical (slaughter and executions) or can it be cultural (total assimilation) or biological (preventing reproduction)? These distinctions are often found in popular discourse, however for the purposes of this paper these distinctions will be treated as unneeded abstractions of the same thing: genocide. Furthermore, many of the policies explored later have features of all three types of genocide.

The most widely recognized official definition of genocide is that provided by Article II of the CPPCG, as the Convention has been ratified or acceded to by hundreds of countries since its enactment in 1951²⁰⁸. Article II holds that genocide is:

Any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such: (a) killing members of a group; (b) Causing serious bodily or mental harm to members of the group; (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; (d) Imposing measures intended to prevent births within the group; (e) Forcibly transferring children of the group to another group.²⁰⁹

While Canadian law draws its framework from the UN definition, genocide in Canada is more narrowly defined. Canadian law describes genocide as “any of the following acts committed with intent to destroy in whole or in part any identifiable group, namely, (a) killing members of the group; or (b) deliberately inflicting on the group conditions of life calculated to bring about its physical destruction.”²¹⁰ Within the law, an ‘identifiable group’ is identified as “any section of the public distinguished by colour, race, religion, national or ethnic origin, age, sex, sexual orientation, gender identity or expression, or mental or physical disability.”²¹¹ The Canadian definition selectively draws upon the CPPCG’s Article II (a) and (c) to be enacted within the Canadian legal framework and excludes Article II (b), (d), and (e).

²⁰⁷ John McGarry and Brendan O’Leary, *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts* (London; New York, NY: Routledge, 1993).

²⁰⁸ Hughes, “Genocide,” 119-38.

²⁰⁹ “Convention on the Prevention and Punishment of the Crime of Genocide.” OHCHR, 1951. Retrieved March 2, 2018.

²¹⁰ “Consolidated Federal Laws of Canada, Criminal Code,” Canada Occupational Health and Safety Regulations, November 07, 2018, <https://laws-lois.justice.gc.ca/eng/acts/C-46/section-318.html>.

²¹¹ *Ibid.*

What is the motive behind Canada's narrowed definition of genocide? Why would Canada risk its international reputation as a humanitarian, peacekeeping nation to create a conservative piece of legislation concerning one of the most sensitive topics in modern politics? At least part of this answer comes from the history of genocide in Canada.

A Canadian Genocide: Historical Evidence

There is a wide basis of historical evidence upon which claims of genocide have been made in Canada. Allegations of genocide often target policies implemented under the *Indian Act* of 1876 and one of its predecessors, the *Gradual Civilization Act* of 1857, which provided state funding for the Canadian Indian Residential School (IRS) system²¹². The subsequent population transfers known as the '60s Scoop' and mass-sterilization campaigns have also been labeled as genocidal²¹³.

The IRS system was designed to assimilate Indigenous children into Euro-Canadian society by isolating them from their cultures and indoctrinating them with Euro-Canadian beliefs, most notably Christianity²¹⁴. Approximately 150,000 children passed through the 125 church-run residential schools of the IRS system throughout its existence²¹⁵. The forced separation of children from their families coupled with abuse and neglect caused lasting trauma and emotional disconnection in many former students²¹⁶.

Abuse and neglect often took the form of rampant sexual and physical abuse of children at the hands of school administrators and staff within the IRS system (of which the government was aware). Mistreatment also led to death, and it is estimated that at least 6,000 children perished unnaturally while attending residential schools²¹⁷. Many fatalities stemmed from deliberate abuses such as the provision of milk infected with tuberculosis to children within the schools²¹⁸. This

²¹² Murray R. Thomas, "Can money undo the past? A Canadian example," *Comparative Education* 39, no. 3 (2003): 331-43.; Andrew Woolford and Jeff Benvenuto, "Canada and colonial genocide," *Journal of Genocide Research* 17, no. 4 (2015): 373-90.

²¹³ Andrew Woolford and Jeff Benvenuto, "Canada and colonial genocide," *Journal of Genocide Research* 17, no. 4 (2015): 373-90.

²¹⁴ Andrew Woolford and James Gacek, "Genocidal Carcerality and Indian Residential Schools in Canada," *Punishment & Society* 18, no. 4 (2016): 400-19.

²¹⁵ David B. MacDonald, "Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada," *Journal of Genocide Research* 17, no. 4 (2015): 413.

²¹⁶ Woolford and Gacek, "Genocidal Carcerality and Indian Residential Schools in Canada," 412.

²¹⁷ Ronald Niezen, "Templates and Exclusions: Victim Centricism in Canada's Truth and Reconciliation Commission on Indian Residential Schools," *Journal of the Royal Anthropological Institute* 22, no. 4 (2016): 921; Woolford and Gacek, "Genocidal Carcerality and Indian Residential Schools in Canada," 404.

²¹⁸ Karen Stote, "An Act of Genocide: Eugenics, Indian Policy, and the Sterilization of Aboriginal Women in Canada," (PhD diss., ProQuest Dissertations Publishing, 2012) 116-117.

coincided with disproportionately high mortality rates from the disease within Indigenous populations and is thought to be part of government experiments that were reportedly carried out within the schools²¹⁹. In 1907, the *Report in Indian Schools of Manitoba and the Northwest* described tuberculosis fatalities that may have claimed between 24 and 33 percent of children attending residential schools within the region²²⁰.

Genocide within Canada is not limited to policies of the *Indian Act* such as the IRS system. As Woolford and Benvenuto note that the government's destructive actions have also included "forced removals, negligent disease spread, prohibition of cultural practices such as the potlatch, welfare-state child removals, the sterilization of Aboriginal women and the ecological devastation of indigenous territories."²²¹ The mention of welfare-state child removals refers to the 60s Scoop. As the federal policy of residential schools lost momentum, provincial governments took up the mantle, removing approximately 20,000 Indigenous children from their biological families under 'welfare' acts and placing them in non-Indigenous households during the 1960s through to the 1980s²²². This was an effective way for the government to deprive Indigenous children of their culture and assimilate them into Euro-Canadian society.

Mass, non-consensual sterilization was another tactic used by the Canadian government both inside and outside the IRS system on Indigenous people, usually women²²³. In places such as Northern Canada, "nearly 70 percent of tubal ligations performed during the course of an eleven-year period, from 1966–1976, were carried out on Aboriginal peoples."²²⁴ These sterilization campaigns were designed to weaken Indigenous titles to land and reduce their population, thus minimizing local resistance to settlers and federal paternalistic obligations towards Indigenous peoples²²⁵.

It is thus clear that mass-sterilization, the IRS system, and the 60s Scoop "served to destroy Aboriginal peoples' forms of life and to reduce the numbers of those considered Aboriginal in the

²¹⁹ Ibid.

²²⁰ Ibid., 100.

²²¹ Woolford and Benvenuto, "Canada and colonial genocide," 373-90.

²²² "Saskatchewan Minister Hopes Government Gives '60s Scoop Apology by Year's End." *Saskatoon StarPhoenix*. November 01, 2018. Accessed November 4, 2018. <https://thestarphoenix.com/news/local-news/saskatchewan-minister-hopes-government-gives-60s-scoop-apology-by-years-end>.

²²³ Stote, "An Act of Genocide: Eugenics, Indian Policy, and the Sterilization of Aboriginal Women in Canada."

²²⁴ Ibid.

²²⁵ Ibid.

eyes of the federal government.”²²⁶ With these grievances established, an analysis may begin to determine if what occurred constitutes as genocide.

Application of Definitions

While many accusations of genocide in Canada hold that the government committed ‘cultural genocide,’²²⁷ the distinguishing of ‘cultural’ genocide does not change that what occurred was a genocide and may thus be considered unnecessary. Some may even argue that it is an insufficient label, due to the thousands of Indigenous peoples that died due to the deliberate spread of disease and negligence of the healthcare system. Qualifying Canadian genocide as ‘cultural’ is known to be a weaker and non-binding label when compared to simply stating ‘genocide’ and has been excluded from most legal understandings of genocide²²⁸. While it is important to recognize the cultural loss of Indigenous peoples, as Jesse Staniforth points out; “The word ‘cultural’ seems to suggest that the IRS system was designed to destroy cultures but not people, a fact far from the reality of Residential Schools. ‘Cultural’ is a civilizing adjective: it says that our policies were not truly evil, just deeply misguided.”²²⁹

The treatment of Indigenous peoples by the Canadian government is described by Article II (b), (d) and (e) of the CPPCG. According to Article II (b), Canada is guilty of genocide because many IRS system survivors suffer severe mental and/or physical injury from their time spent in the schools²³⁰. Article II (d) is evidenced by sterilization campaigns²³¹. In 2012, TRC Chief Commissioner Justice Murray Sinclair claimed that the IRS system constituted genocide under the CPPCG by referencing Article II (e), stating: “the reality is that to take children away and to place them with another group in society for the purpose of racial indoctrination was—and is—an act of genocide...”²³² Thus, Justice Sinclair implicates the 60s Scoop and IRS system with Article II (e).

²²⁶ Ibid., 109.

²²⁷ MacDonald, “Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,” 411-31; MacDonald and Hudson, “The Genocide Question and Indian Residential Schools in Canada,” 427-49.

²²⁸ MacDonald, “Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,” 411-31.

²²⁹ Jesse Staniforth, “‘Cultural Genocide’? No, Canada Committed Regular Genocide,” *The Toronto Star*, June 10, 2015, <https://www.thestar.com/opinion/commentary/2015/06/10/cultural-genocide-no-canada-committed-regular-genocide.html>.

²³⁰ Woolford and Gacek, “Genocidal Carcerality and Indian Residential Schools in Canada,” 412.

²³¹ Stote, “An Act of Genocide: Eugenics, Indian Policy, and the Sterilization of Aboriginal Women in Canada.”

²³² Puxley, 2012, as cited in MacDonald, “Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,” 422.

Though the policies and actions that Indigenous peoples have been subject to clearly match the criteria within the CPPCG, many scholars note that it is difficult to prove the stipulation of *dolus specialis* (an intent to destroy) provided by the CPPCG²³³. To address this concern, MacDonald and Hudson note that “a number of prominent genocide scholars argue that even if there was no overarching and provable intent to destroy indigenous peoples... if the end result had genocidal consequences that was or even could have been foreseen, then genocide can be understood to have occurred.”²³⁴ Furthermore, if one holds *dolus specialis* to be a core component of genocide, officials within the Canadian government such as Duncan Campbell Scott, deputy superintendent of the Department of Indian Affairs, made it abundantly clear that the IRS system and other such institutions were explicitly designed to “kill the Indian, save the man” and to deal with “the Indian problem.”²³⁵ Indeed, Lt. Richard Pratt, a man often credited as one of the founding figures of Indigenous residential schools, once said that “we make our greatest mistake in feeding our civilization to the Indians instead of feeding the Indians to our civilization.”²³⁶

While it is clear that Canada has committed genocide as defined by the CPPCG, the Convention is limited in its ability to be used to prosecute states, as this would lead to an infringement upon said state’s sovereignty²³⁷. Furthermore, the use of the International Criminal Court to prosecute Canadian citizens for the crime of genocide is out of the question, as it cannot act on crimes committed before July 1st, 2002²³⁸. Hence, a definitive verdict of genocide will have to come from within Canada.

Although the CPPCG applies to the Canadian treatment of Indigenous peoples, the Canadian government has yet to recognize its past actions as genocidal. This is for two reasons. First, the CPPCG does not necessarily hold any legal sway over Canada because the UN cannot create statutes that impose upon the sovereignty of member states²³⁹. Second, Canadian law provides a much narrower definition of genocide that Canadian lawyers and government officials

²³³ MacDonald, “Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,”

²³⁴ MacDonald and Hudson, “The Genocide Question and Indian Residential Schools in Canada,” 427-49.

²³⁵ Ruth Amir, “Cultural Genocide in Canada? It did happen here.” *Aboriginal Policy Studies* 7, no. 1 (2018).

²³⁶ Adams, 1995, cited in Woolford and Gacek, “Genocidal Carcerality and Indian Residential Schools in Canada,” 412.

²³⁷ Dawn Paley and Sandra Cuffe, “Genocide on Trial,” *Canadian Dimension*, December 3, 2013.

<https://canadiandimension.com/articles/view/genocide-on-trial>.

²³⁸ OHCHR, “Convention on the Prevention and Punishment of the Crime of Genocide.”

²³⁹ MacDonald, “Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,” 411-31.

argue does not apply to the IRS system, thus precluding Canada from a verdict of genocide. As noted earlier, the Canadian definition of genocide excludes the CPPCG's Article II (b), (d), and (e), the three stipulations that have been proven to have occurred within Canada.

The Intent Of Canadian Law

Canada's possession of a narrow definition of genocide that deliberately excludes parts of the CPPCG which would apply to the state is not unique; several other colonial states are known to behave similarly²⁴⁰. The label of genocide is highly politicized, and usually offending states attempt to ensure that their laws do not implicate themselves²⁴¹. Canada is guilty of selectively creating laws to ensure its own innocence, a behaviour most clearly demonstrated during the creation and ratification of the CPPCG.

The CPPCG definition is a diluted version of the original definition of genocide put forth by Dr. Raphael Lemkin in 1943, who held that genocide is the physical, cultural, and biological destruction of a people²⁴². Lemkin saw these factors as being intermixed, whereas the Convention has left out cultural genocide from its definition at the behest of colonial states that suspected they might be guilty of cultural genocide²⁴³. As one of these states, Canada was "strongly opposed to the inclusion of cultural genocide in the Genocide Convention." During the creation of the CPPCG, the Secretary of State for External Affairs, Louis St. Laurent, told the Canadian UN representatives to resist the inclusion of any articles pertaining to cultural genocide and to vote against any such articles²⁴⁴. If an article on cultural genocide were to be included, he told the delegates to vote against the Convention²⁴⁵. Indeed, a Progress Report issued by the Canadian delegation stated that "the Canadian delegate had only one important task, namely to eliminate 'cultural genocide' from the Convention" and that "the remaining articles are of no particular concern to Canada."²⁴⁶

After the CPPCG was ratified, Canada further insulated itself by selectively implementing its definition of genocide. This narrow interpretation was justified by legislators who claimed that genocide was so foreign and repulsive to Canadian society that it was unnecessary to implement

²⁴⁰ John McGarry, "Genocide."

²⁴¹ Mathias Thaler, "Political imagination and the crime of crimes: Coming to terms with 'genocide' and 'genocide blindness.'" *Contemporary Political Theory* 13, no. 4 (2014): 358-79.

²⁴² Woolford and Gacek, "Genocidal Carcerality and Indian Residential Schools in Canada," 400-19.

²⁴³ *Ibid.*, 412; Paley and Cuffe, "Genocide on Trial."

²⁴⁴ Amir, "Cultural Genocide in Canada? It did happen here." 108.

²⁴⁵ *Ibid.*

²⁴⁶ *Ibid.*, 109 (as cited in Lapointe, 1948).

such an extensive legal framework, and thus genocide should be known to Canadians as simply the systematic killing and physical extermination of a group²⁴⁷. When commenting on parts of Article II that did not pertain to the physical destruction of people, the authors of the *Report of the Special Committee on Hate Crimes in Canada* suggested that Article II was “intended to cover certain historical incidents in Europe that have little essential relevance to Canada.”²⁴⁸ They even falsely claimed that “mass transfers of children to another group are unknown ... in Canada.”²⁴⁹ Even then, the physical killing aspect of genocide was seen as redundant due to pre-existing laws criminalizing murder of any kind²⁵⁰. Government officials concluded that Article II (b) and (e) were “inadvisable for [Canadian law]” and were to be excluded²⁵¹.

Canadian law also stipulates that since the terms for genocide were adopted in 1998, the prosecution of acts fitting those terms that occurred before 1998 is prohibited²⁵². This prevents any prosecution of the Canadian government in relation to the IRS system, the 60s Scoop or sterilization campaigns, all of which concluded before 1998²⁵³. Thus, scholars are unsure if a criminal case within Canada is possible as this timeframe limit makes it so that “unless that statute is amended or there’s a Charter claim which states that that’s unconstitutional to prohibit the access to justice on that ground... there will be no [prosecutions of genocide].”²⁵⁴

The Rationale Behind Canadian Law

There are several likely reasons that caused the government to insulate itself from accusations of genocide via exclusive legal definitions. The most probable of these reasons are the cultural and moral consequences of genocide and the financial and legal responsibilities the state would be held to if it was found guilty.

The Truth and Reconciliation Commission of Canada works assuming public ignorance towards the IRS system, and studies have found that before the commission began in 2008 only 30% of Canadians had ever heard of residential schools²⁵⁵. It is apparent that knowledge of the

²⁴⁷ Ibid.

²⁴⁸ Churchill, 2004, 9;86 as cited in MacDonald and Hudson, “The Genocide Question and Indian Residential Schools in Canada,” 427-49.

²⁴⁹ Ibid.

²⁵⁰ Ibid.

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid. 13.

²⁵⁴ Paley and Cuffe, “Genocide on Trial.”

²⁵⁵ MacDonald, “Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,” 414.

IRS system is not a part of Canadian national identity (national identity being the interconnection of values, national myths, collective memory, and heritage of a nation²⁵⁶). This is because Canadian national identity traditionally manifests as an internationalist humanitarian ideal that extrapolates upon ideas of Canadian morality and wisdom derived from such occurrences as the creation of peacekeeping and the early end of the slave trade in Canada²⁵⁷.

The Canadian national identity does not consider genocide as a possible part of the nation's past. Combined with the serious connotations of genocide as 'the crime of all crimes,'²⁵⁸ accusations of genocide that criminalise the history of the nation are likely to result in a "knee-jerk emotional denial of the charge of genocide, not based on any reasoned legal consideration of the [CPPCG] or the facts of the case."²⁵⁹ This is often called aspect blindness; the inability for a person or group to change their perspective on a concept²⁶⁰. Aspect blindness applies to Canadian history and identity as many Canadians cannot, or refuse to, reconceptualize Canada as a genocidal nation, especially older generations who lived while both genocide and humanitarian internationalism were taking place²⁶¹. Indeed, many Canadians find that "in Canada, we have trouble processing the idea we are capable of [genocide]. It doesn't go with our being peacekeepers, a nice country that is apologizing all the time."²⁶² The Canadian government likely avoids accusations or verdicts of genocide to preserve its sanctimonious national identity and to avoid moral upheaval within the body politics' historical narratives. Furthermore, parties determined on reconciling the nation's past by acknowledging genocide would distance themselves from voters who subscribe to the traditional Canadian national identity.

Financial and legal responsibilities are another possibility that loom over the government should it be found guilty of genocide. This is shown by "more than 9,000 lawsuits [that] have been

²⁵⁶ Tim Nieguth and Tracey Raney, "Nation-building and Canada's National Symbolic Order, 1993-2015," *Nations and Nationalism* 23, no. 1 (2016): 87-108. doi:10.1111/nana.12170.

²⁵⁷ MacDonald, "Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,"; Nieguth and Raney, "Nation-building and Canada's National Symbolic Order, 1993-2015," 87-108.

²⁵⁸ MacDonald, "Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada,"; Joseph Brean, "'Cultural Genocide' of Canada's Indigenous Peoples Is a 'mourning Label,' Former War Crimes Prosecutor Says," *National Post*, January 16, 2016. <https://nationalpost.com/news/canada/cultural-genocide-of-canadas-indigenous-people-is-a-mourning-label-former-war-crimes-prosecutor-says>.

²⁵⁹ Michael A. Innes, "Genocide, Ethnocide, or Hyperbole? Australia's 'Stolen Generation' and Canada's 'Hidden Holocaust'," *Cultural Survival Quarterly* 25, no. 4 (2002): 54.

²⁶⁰ Mathias Thaler, "Political imagination and the crime of crimes: Coming to terms with 'genocide' and 'genocide blindness.'" *Contemporary Political Theory* 13, no. 4 (2014): 358-79.

²⁶¹ *Ibid.*

²⁶² Larry Krotz, "A Canadian Genocide?" *The UC Observer*, March 2014, https://www.ucobserver.org/features/2014/03/canadian_genocide/.

filed against the government,”²⁶³ the ultimate cost of which “might reach billions of dollars.”²⁶⁴ These estimates, from 2003, have likely grown far beyond the 1-2 billion dollars predicted²⁶⁵ and may continue to grow into the future, in addition to the potential moral obligation for the state to put more funds into reparation programs²⁶⁶. Reparation funds will likely come exclusively from the Canadian government, which has been held accountable for 75% of the fiscal burden, and the churches that participated in the IRS system, which are accountable for the remaining 25% in some IRS system lawsuits²⁶⁷. This massive fiscal responsibility has caused “the churches and government... to avoid as much blame as possible for the indigenous people’s plight and to incur as little expense as possible in settling the lawsuits.”²⁶⁸ The avoidance of expenses and legal duties is a strong motivator for the maintenance of Canada’s current genocide laws.

Conclusion

Genocide is often thought of as “the greatest evil imaginable.”²⁶⁹ Convictions of genocide are of the utmost gravity and can have drastic implications on the financial resources, culture, and identity of inculpatated nations. While the Canadian state has strived to protect itself from substantiated accusations of genocide, it is evident that by both Lemkinian and UN standards Canada is guilty of genocide²⁷⁰. What stands between the government and a verdict of genocidal behaviour is Canadian sovereignty and the state’s ability to create self-serving laws. The final verdict on Canada’s genocidal past may therefore lie in the ability of those who seek justice to

²⁶³ Murray R. Thomas, “Can money undo the past? A Canadian example,” *Comparative Education* 39, no. 3 (2003): 331-43.

²⁶⁴ *Ibid.*

²⁶⁵ *Ibid.*, 311.

²⁶⁶ Barrera, Jorge. “Budget Boosts Funding for First Nations Self-government, Indigenous Services.” *CBC News*, February 28, 2018. <https://www.cbc.ca/news/indigenous/federal-budget-2018-indigenous-file-1.4552955>.

²⁶⁷ Murray R. Thomas, “Can money undo the past? A Canadian example,” *Comparative Education* 39, no. 3 (2003): 334

²⁶⁸ *Ibid.*, 337.

²⁶⁹ Joseph Brean, “‘Cultural Genocide’ of Canada’s Indigenous Peoples Is a ‘mourning Label,’ Former War Crimes Prosecutor Says,” *National Post*, January 16, 2016. <https://nationalpost.com/news/canada/cultural-genocide-of-canadas-indigenous-people-is-a-mourning-label-former-war-crimes-prosecutor-says>.

²⁷⁰ OHCHR, “Convention on the Prevention and Punishment of the Crime of Genocide.”; Woolford and Gacek, “Genocidal Carcerality and Indian Residential Schools in Canada,” 400-19.

enact constitutional amendments. A finding of guilt on the part of the Canadian government would permanently alter the way Canadians view their society and national identity.

Bibliography

- "Saskatchewan Minister Hopes Government Gives '60s Scoop Apology by Year's End."
Saskatoon Star Phoenix, Accessed November 4, 2018.
<https://thestarphoenix.com/news/local-news/saskatchewan-minister-hopes-government-gives-60s-scoop-apology-by-years-end>.
- "Convention on the Prevention and Punishment of the Crime of Genocide." OHCHR, 1951.
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CrimeOfGenocide.aspx>.
- Amir, Ruth. "Cultural Genocide in Canada? It did Happen Here." *Aboriginal Policy Studies* 7, no. 1 (2018).
- Barrera, Jorge. "Budget Boosts Funding for First Nations Self-government, Indigenous Services." *CBC News*, February 28, 2018. <https://www.cbc.ca/news/indigenous/federal-budget-2018-indigenous-file-1.4552955>.
- Brean, Joseph. "'Cultural Genocide' of Canada's Indigenous Peoples Is a 'mourning Label,' Former War Crimes Prosecutor Says." *National Post*, January 16, 2016.
<https://nationalpost.com/news/canada/cultural-genocide-of-canadas-indigenous-people-is-a-mourning-label-former-war-crimes-prosecutor-says>.
- Canada Occupational Health and Safety Regulations. "Consolidated Federal Laws of Canada, Criminal Code." November 07, 2018. <https://laws-lois.justice.gc.ca/eng/acts/C-46/section-318.html>.
- Hughes, James. "Genocide." In *The Routledge Handbook of Ethnic Conflict*, 2nd ed, 119-38. London: Routledge, Taylor & Francis Group, 2016.
- Innes, Michael A. "Genocide, Ethnocide, or Hyperbole? Australia's 'Stolen Generation' and Canada's 'Hidden Holocaust'." *Cultural Survival Quarterly* 25, no. 4 (2002): 54-62.
- International Criminal Court. "Understanding the International Criminal Court." Accessed November 13, 2018. <https://www.icc-cpi.int/iccdocs/PIDS/publications/UICCEng.pdf>.
- Jenne, Erin K. "The causes and consequences of ethnic cleansing." In *The Routledge Handbook of Ethnic Conflict*, 2nd ed, 110-18. London: Routledge, Taylor & Francis Group, 2016.
- Krotz, Larry. "A Canadian Genocide?" *The UC Observer*, March 2014.
https://www.ucobserver.org/features/2014/03/canadian_genocide/.
- MacDonald, David B. "Canada's History Wars: Indigenous Genocide and Public Memory in the United States, Australia and Canada." *Journal of Genocide Research* 17, no. 4 (2015): 411-31.

- MacDonald, David B., and Graham Hudson. "The Genocide Question and Indian Residential Schools in Canada." *Canadian Journal of Political Science / Revue Canadienne De Science Politique* 45, no. 2 (2012): 427-49.
- McGarry, John, and Brendan O'Leary. *The Politics of Ethnic Conflict Regulation: Case Studies of Protracted Ethnic Conflicts*. London; New York, NY: Routledge, 1993.
- McGarry, John. "Expulsions." Lecture, Chernoff AUD, Kingston, ON, October 3, 2018.
- McGarry, John. "Genocide." Lecture, Chernoff AUD, Kingston, ON, September 26, 2018.
- Nieguth, Tim, and Tracey Raney. "Nation-building and Canada's National Symbolic Order, 1993-2015." *Nations and Nationalism* 23, no. 1 (2016): 87-108. doi:10.1111/nana.12170.
- Niezen, Ronald. "Templates and Exclusions: Victim Centrism in Canada's Truth and Reconciliation Commission on Indian Residential Schools." *Journal of the Royal Anthropological Institute* 22, no. 4 (2016): 920-38.
- Paley, Dawn, and Sandra Cuffe. "Genocide on Trial." *Canadian Dimension*, December 3, 2013. <https://canadiandimension.com/articles/view/genocide-on-trial>.
- Staniforth, Jesse. "Cultural Genocide'? No, Canada Committed Regular Genocide." *The Toronto Star*, June 10, 2015. <https://www.thestar.com/opinion/commentary/2015/06/10/cultural-genocide-no-canada-committed-regular-genocide.html>.
- Stote, Karen. "An Act of Genocide: Eugenics, Indian Policy, and the Sterilization of Aboriginal Women in Canada." PhD diss., ProQuest Dissertations Publishing, 2012.
- Thaler, Mathias. "Political imagination and the crime of crimes: Coming to terms with 'genocide' and 'genocide blindness.'" *Contemporary Political Theory* 13, no. 4 (2014): 358-79.
- Thomas, R. Murray. "Can money undo the past? A Canadian example." *Comparative Education* 39, no. 3 (2003): 331-43.
- Truth and Reconciliation Canada. *Canada's Residential Schools: The Legacy*. Winnipeg: Truth and Reconciliation Commission of Canada, 2015. 5.
- Woolford, Andrew, and James Gacek. "Genocidal Carcerality and Indian Residential Schools in Canada." *Punishment & Society* 18, no. 4 (2016): 400-19.
- Woolford, Andrew, and Jeff Benvenuto. "Canada and colonial genocide." *Journal of Genocide Research* 17, no. 4 (2015): 373-90.

Pre amble

American and British Imperialism and the 1953 Iran Coup

Lauren Di Felice

On June 15, 2017, The State Department released a long-awaited updated volume of declassified U.S. government documents on the 1953 coup d'état in Iran entitled "Operation TRAPJAX."²⁷¹ In 1989, the State Department released the official record of the coup, but it did not make a single reference to American or British actions in connection with the event.²⁷² Therefore the 2017 publication represents decades of internal debates and public controversy concerning the role of American and British intelligence in the ousting of Iran's Prime Minister, Mohammad Mossadegh. The coup had long-lasting effects on Iran's economic and political future, and according to Kerman and Wood, the event did more damage to Iran than any singular event in its long history.²⁷³ There has been a widespread debate ever since the coup on whether or not the event was a spontaneous uprising by the Iranian people to overthrow the controversial prime minister or whether American and British forces were the main actors motivated by their self-interest.²⁷⁴ What was the extent of American and British intervention in the coup? This paper will argue that the United States and Britain were the leading figures behind the 1953 coup due to their economic and political imperial motivations. To begin, the paper will review the pertinent literature on the topic, first on the broader debate on modern-day imperialism, and secondly on the various perspectives on the coup. Next, the paper will explore Lenin's theory of Imperialism. Afterwards, the paper will discuss the topic through a broad historical lens, taking into account the positions of the U.S and Britain in the years leading up to the coup.²⁷⁵ Subsequently, the paper will look at how the U.S and British forces utilized propaganda and military force to overthrow

²⁷¹ Byrne, Malcolm. "Iran 1953: State Department Finally Releases Updated Official History of Mosaddeq Coup." In *National Security Archive Briefing Book No. 598*, 2017.

²⁷² Byrne, "Updated Official History of Mosaddeq Coup."

²⁷³ Cited in Anderson, Kira C. "Whitewashing the Shah: Racial Liberalism and U.S. Foreign Policy during the 1953 Coup of Iran." In *Dissertations Publishing*, 2016, 29.

²⁷⁴ Kinzer, Stephen. "All the Shah's Men: An American Coup and the Roots of Middle East Terror." *J. Wiley & Sons*, Hoboken, N.J, 2003, 124.

²⁷⁵ McMurdo, Torey L. "The Economics of Overthrow: The United States, Britain, and the Hidden Justification of Operation TPAJAX." In *Studies in Intelligence*, vol. 56, no.2, 2012, pp.15-26, 23.

Mossadegh. Finally, the paper will examine the current instability in the region that has resulted from the coup.

LITERATURE REVIEW

There have been competing views on whether or not imperialism is a modern phenomenon. Hobson made the first systematic critique of contemporary imperialism in his 1902 book *Imperialism: A Study*, which gives a comprehensive description of the significant economic and political features of imperialism. According to Hobson, the profitable employment of surplus financial resources is at the basis of the drive to imperialism.²⁷⁶ Additionally, banks and exporting companies were the main actors in promoting imperialism and foreign investment because these large and wealthy firms were the primary benefactors.²⁷⁷ Hobson's foundational book was later utilized by Kautsky in his 1912 book *Gold, Paper Currency and Commodity*. Kautsky argued that it was wrong to identify all the phenomena of present-day capitalism as imperialism.²⁷⁸ Kautsky claimed that imperial actions are a result of particular foreign policy utilized by few countries.²⁷⁹ Lenin in response wrote a comprehensive Marxist analysis in 1917 entitled *Imperialism: the Highest Stage of Capitalism*. Lenin argued that imperialism was not only a change in foreign policy of the government of the advanced countries but as a change in the nature of capitalist relations of production.²⁸⁰ Lenin's perspective on imperialism will be further discussed below, in direct reference to the British and American motivations for orchestrating the coup.

Addressing specifically the Iranian coup, several scholars have explored the potential role of American and British intelligence.²⁸¹ For example, Abrahamian sees the coup as firmly located inside the "conflict between imperialism and nationalism, between developed industrial economies and underdeveloped countries dependent on exporting raw materials," in this case, oil.²⁸² In Abrahamian's book *The Coup* published in 2013, he paints a picture of Mossadegh as a well-meaning, naive man, who was out of his depth against the American and British forces against him.²⁸³ In addition scholars such as Kinzer in his book *All the Shah's Men* published in 2003 asserts

²⁷⁶ Hobson, John "Chapter 1: The Measure of Imperialism." In *Imperialism, a Study*. J. Pott & Company, New York, 1902, pp. 15-29, 26.

²⁷⁷ Hobson, "The Measure of Imperialism," 25.

²⁷⁸ Smyth, Gareth. "Five Books on the Legacy of the 1953 Coup in Iran." In *The Guardian*, 2015.

²⁷⁹ Smyth, "The Legacy of the 1953 Coup in Iran."

²⁸⁰ Lenin, Vladimir. "Imperialism the Highest Stage of Capitalism." In *Resistance Books*, Newtown, 1999, 8.

²⁸¹ Smyth, "The Legacy of the 1953 Coup in Iran."

²⁸² Abrahamian, Ervand. "The 1953 Coup in Iran." In *Science & Society*, vol. 65, no. 2, 2001, pp. 182-215, 189.

²⁸³ Abrahamian, "The 1953 Coup in Iran," 189.

that the coup acted as a trigger of Middle Eastern terror.²⁸⁴ Kinzer states that the U.S and Britain made a terrible mistake toppling a leader who shared their values, as Mossadegh was the first liberal leader of the Middle East, who believed in secular government and the rule of law as the highest authority.²⁸⁵ Kinzer argues that the intervention has caused a rise of national sovereignty in the form of anti-Americanism.²⁸⁶ The paper will further address Kinzer's argument when analyzing the modern repercussions of further insecurity in the region.

Others, however, argue the roots of the clash of 1953 are found in internal contradictions against the ideals of Mossadegh. For example, Bayandor maintains the coup had an "indigenous character."²⁸⁷ Bayandor's *The Fall of Mossadegh: August 1953* published in 2012, argues that the current narrative on the 1953 coup has been riddled with foreign conspiracy theories.²⁸⁸ Bayandor insists that many Iranians actively opposed the secular, liberal nationalism of Mossadegh and finished completing the coup when CIA efforts failed on August 15, 1953.²⁸⁹ Furthermore, narratives refuting outside involvement persist in modern day Iran, as reflected by one of the top members of the current ruling elite, Kashani, who has publicly denied British and American involvement.²⁹⁰ Kashani asserts Mossadegh himself was following British plans and carrying out their dictates to undermine the role of the monarchy and influential religious leaders, such as the Shia clerics until the Iranian people bravely revolted to take back control of their country.²⁹¹ My argument aligns with scholars such as Abrahamian, who insist the imperial actions of America and Britain played the main role in Iran's coup.

LENIN'S THEORY OF IMPERIALISM

To highlight the central role of American and British intervention in the 1953 Iranian coup, I will assess the historical, political, and economic context within the theoretical lens of Lenin's views on imperialism as stated in his 1917 book *Imperialism: the Highest Stage of Capitalism*.

²⁸⁴ Kinzer, "All the Shah's Men," 3.

²⁸⁵ Kinzer, "All the Shah's Men," 130.

²⁸⁶ Kinzer, "All the Shah's Men," 130.

²⁸⁷ Bayandor, Darioush. "The Fall of Mosaddeq, August 1953: Institutional Narratives, Professor Mark Gasiorowski and My Study." In *Iranian Studies*, vol. 45, no. 5, 2012, pp. 679-691, 679.

²⁸⁸ Bayandor, "The Fall of Mosaddeq," 679.

²⁸⁹ Bayandor, "The Fall of Mosaddeq," 679.

²⁹⁰ Kazemzadeh, Masoud. "Review Essay All the Shah's Men: An American Coup and the Roots of Middle East Terror." In *Middle East Policy* vol. 11, no. 4, 2004. Pp. 122-129, 124.

²⁹¹ Kazemzadeh, "An American Coup and the Roots of Middle East Terror," 123.

Lenin argued that imperialism was the highest and last stage in the development of capitalism.²⁹² Capitalism has grown into a world system of colonial oppression and financial control for the overwhelming majority of the people of the world by a handful of “advanced” countries.²⁹³ Lenin builds off of a Marxist economic framework, which asserts that the spread of influence is necessary to secure foreign markets as capitalism needs to constantly expand in order to sustain itself.²⁹⁴ Under capitalism, the home market is inevitably bound up with the foreign markets and as the export of capital increases, the foreign and colonial connections and “spheres of influence” expand in all ways.²⁹⁵ Lenin insists that the gains are then shared between two or three world powers, specifically pointing to America, Great Britain, and Japan.²⁹⁶ State power within each of the advanced capitalist countries is then used to further the interests of the finance capitalists of its own country on the world market.²⁹⁷ Lenin’s idea that imperial domination is a result of the direct growth of capitalism furthers my argument that as capitalist superpowers, Britain and America’s actions in the coup were driven by imperial motivations to extend their spheres of influence.²⁹⁸

In addition, there are modern-day academics that agree with Lenin’s initial speculations surrounding imperialism. For example, Gowan built off Lenin’s theory by categorizing the United States as a “business democracy.”²⁹⁹ Similarly, Monbiot has contended that corporate interests have captured the entire democratic process in Britain.³⁰⁰ Gowan asserts that the American form of state organization throughout the twentieth-century represents a society that celebrates and accepts the worldview and values of the business class, which then, in turn, gives the business class extraordinary sway over policy formation.³⁰¹ Therefore, business groups directly control the American party system and the other institutions of the American state in a practically unmediated way.³⁰² At the beginning of this process, the people of the most advanced and most expansionist capitalist powers were often quite straightforward about the use of state power to defend and

²⁹² Lenin, “Imperialism the Highest Stage of Capitalism,” 9.

²⁹³ Lenin, “Imperialism the Highest Stage of Capitalism,” 10.

²⁹⁴ Lenin, “Imperialism the Highest Stage of Capitalism,” 10.

²⁹⁵ Lenin, “Imperialism the Highest Stage of Capitalism,” 10.

²⁹⁶ Lenin, “Imperialism the Highest Stage of Capitalism,” 10.

²⁹⁷ Lenin, “Imperialism the Highest Stage of Capitalism,” 9.

²⁹⁸ Lenin, “Imperialism the Highest Stage of Capitalism,” 14.

²⁹⁹ Gowan, Peter. “Triumphing Toward International Disaster: The Impasse in American Grand Strategy.” In *Critical Asian Studies*, vol. 36, no. 1, 2004, pp. 3-36, 4.

³⁰⁰ Monbiot, George. “It’s Business That Really Rules us Now.” In *The Guardian*, 2013.

³⁰¹ Gowan, “Triumphing Toward International Disaster,” 4.

³⁰² Gowan, “Triumphing Toward International Disaster,” 4.

promote these interests.³⁰³ In 1907 Woodrow Wilson, who was to become US president in 1912 declared: “Concessions obtained by financiers must be safeguarded by ministers of state, even if the sovereignty of unwilling nations be outraged in the process.”³⁰⁴ Therefore the imperial motivations of Britain and America have been well documented and widely established.

BRITISH AND AMERICAN ECONOMIC AND POLITICAL CONTEXT

By exploring the British economic condition in 1953, it is evident how British Imperial actions in Iran were necessary to sustain Britain’s global economic position. The issues that arose in Iran in the early 1950s stemmed from disagreements between the private British Anglo-Iranian Oil Company (AIOC) and the Iranian government.³⁰⁵ Relations between the company and Tehran, the capital of Iran, were dictated by the 1933 contract between the Iranian government and AIOC and resulted in a lopsided revenue split among the parties.³⁰⁶ For example in 1950, if Iran had controlled its own oil revenues, the country would have earned 275 million euros, which today would represent just over 8 billion U.S dollars.³⁰⁷ However, Iran only received 13% of the overall revenue.³⁰⁸ This disparity prompted nationalists, such as Mossadegh to advocate taking control of Iran’s oil production, which resulted in Mossadegh gaining tremendous popularity throughout Iran.³⁰⁹ Despite British opposition, in 1951 the Majlis, Iran’s parliamentary body, under the leadership of Mossadegh voted to nationalize Iran’s oil industry.³¹⁰ Considering Iran produced 76% of the AIOC’s total output that year, control of Iran’s oil was seen as a vital source of revenue Britain couldn’t afford to lose.³¹¹

While on the surface the United Kingdom faced an immediate loss of revenue with the nationalization of Iran’s oil, its more significant concern was a weakening British economy throughout the post World War II period.³¹² With the conclusion of the war, Britain was slow to readjust from wartime production back to a standard peacetime economy.³¹³ For example, at the end of the war, nearly 55 % of Britain’s gross domestic product was derived from production

³⁰³ Lenin, “Imperialism the Highest Stage of Capitalism,” 13.

³⁰⁴ Lenin, “Imperialism the Highest Stage of Capitalism,” 13.

³⁰⁵ McMurdo, “The Economics of Overthrow,” 16.

³⁰⁶ McMurdo, “The Economics of Overthrow,” 16.

³⁰⁷ McMurdo, “The Economics of Overthrow,” 13.

³⁰⁸ McMurdo, “The Economics of Overthrow,” 13.

³⁰⁹ Kinzer, “All the Shah's Men,” 53.

³¹⁰ Anderson, “Whitewashing the Shah,” 20.

³¹¹ McMurdo, “The Economics of Overthrow,” 17.

³¹² McMurdo, “The Economics of Overthrow,” 16.

³¹³ McMurdo, “The Economics of Overthrow,” 16.

associated with war.³¹⁴ As a result, Britain was unable to immediately produce and export goods to gain currency to pay for imports and to pay back its large war loans.³¹⁵ Finances were also short because Britain had been reluctant to scale back spending to maintain its international empire.³¹⁶ In addition, the sudden end of the Lend-Lease agreement in 1941 had a considerable impact on Britain's economy.³¹⁷ The Lend-Lease agreement consisted of the United States providing its wartime allies including the United Kingdom, Soviet Union, China, and France, with war materials and supplies.³¹⁸ Britain received an estimated 31.4 billion dollars in wartime shipments, the most of any country listed under the agreement.³¹⁹ When Lend-Lease was abruptly cancelled, Britain was virtually bankrupt and still in need of financial assistance.³²⁰ Furthermore, in the negotiation of the Anglo-American Loan Agreement that followed the end of Lend-Lease, Washington used its newfound economic power to pressure Britain into agreeing to the Bretton Woods system in 1944.³²¹ The Bretton Woods system ensured that the dollar would become the larger reserve currency rather than the pound, which resulted in Britain losing its ability to cheaply purchase imports and borrow across borders.³²² The relatively undamaged U.S economy was much better equipped to take advantage of freer trade and convertible currency regimes than Britain.³²³ Britain's economic situation in 1953 was desperate, causing an increased reluctance to give up control of Iran's oil production.³²⁴

In contrast to the United Kingdom, the United States had little stake, economic or political, in Iran until it came to be seen as a key in the West's Cold War competition with the Soviet Union.³²⁵ It was argued that if Iran sided with the Soviet Union, it would open the doors to the spread of communism throughout the Middle East.³²⁶ Britain's Attlee and subsequent Churchill governments, therefore, worked to emphasize this vulnerability to Washington, which was

³¹⁴ McMurdo, "The Economics of Overthrow," 17.

³¹⁵ McMurdo, "The Economics of Overthrow," 17.

³¹⁶ McMurdo, "The Economics of Overthrow," 20.

³¹⁷ McMurdo, "The Economics of Overthrow," 20.

³¹⁸ McMurdo, "The Economics of Overthrow," 20.

³¹⁹ McMurdo, "The Economics of Overthrow," 20.

³²⁰ McMurdo, "The Economics of Overthrow," 20.

³²¹ McMurdo, "The Economics of Overthrow," 19.

³²² McMurdo, "The Economics of Overthrow," 19.

³²³ McMurdo, "The Economics of Overthrow," 16.

³²⁴ McMurdo, "The Economics of Overthrow," 15.

³²⁵ Anderson, "Whitewashing the Shah," 20.

³²⁶ McMurdo, "The Economics of Overthrow," 15.

increasingly concerned about Soviet expansion.³²⁷ The British urged American involvement for quite some time, due to the threat of communism that Mossadegh brought and the threat to its financial interests.³²⁸ However, the U.S president Harry Truman resisted considering Mossadegh was popular with the American public for his democratic rhetoric and his glamorous lifestyle.³²⁹ The U.S image in Iran was also extremely positive due to lack of American colonial enterprises and to Woodrow Wilson's support for the rights of colonized nations.³³⁰ In fact, Mossadegh was named *Time Magazine's* "Man of the Year" in 1951.³³¹ Eisenhower, who entered office in 1952, had a different response to Britain's approach.³³² Abiding by his famous campaign promise to rid the world of "communism, Korea and corruption," Eisenhower decided to try to eliminate communism's role in the Middle East by agreeing to join the British attempt to forcibly remove Mossadegh from power.³³³ For example, the Secretary of State and CIA director at the time both believed that "any country not decisively allied with the United States was a potential enemy," and Iran, with its oil reserves, shared border with the Soviet Union, nationalist Prime Minister, active communist party, and political neutrality was expected to fall to communism without intervention.³³⁴ Therefore, the United States had its motives for maintaining its sphere of political influence over Iran to put in place a leader who favoured the United States' brand of capitalism.

1953 IRAN COUP, PREPARATIONS AND RESULTS

In the months leading up to the coup, American and British intelligence led an intense propaganda campaign, relying on psychological-political warfare designed to further weaken support for the Mossadegh government.³³⁵ The release of the CIA's TAPJAX declassified documents revealed detailed plans for propaganda in Iran.³³⁶ These overt and covert actions involved portraying the government as favouring communism, threatening Islam, creating public disorder, giving power to untrustworthy politicians, and deliberately leading the country to

³²⁷ McMurdo, "The Economics of Overthrow," 23.

³²⁸ Anderson, "Whitewashing the Shah," 20.

³²⁹ Anderson, "Whitewashing the Shah," 20.

³³⁰ Kazemzadeh, "An American Coup and the Roots of Middle East Terror," 124.

³³¹ Anderson, "Whitewashing the Shah," 20.

³³² Anderson, "Whitewashing the Shah," 20.

³³³ McMurdo, "The Economics of Overthrow," 23.

³³⁴ Kinzer, "All the Shah's Men," 131.

³³⁵ *Foreign Relations of the United States, 1952–1954, Volume X, Iran, 1951–1954*, eds. Carl N. Raether and Charles S. Sampson (Washington: Government Printing Office, 1989), Document 7, 47.

³³⁶ *Foreign Relations of the U.S., "Iran, 1951–1954,"* 47.

economic disorder.³³⁷ For example, the combined wealth of the United States and Britain were used to bribe mosques, religious leaders, and mobs to portray Mossadegh in a negative light.³³⁸ Specifically, one of their goals was to provide increased subsidization for selected Iranian newspapers that ran CIA backed articles.³³⁹ This subsidization proved so effective that one propagandist, Richard Cottam, claimed that by 1952 80% of newspapers inside of Tehran were being bribed by the CIA.³⁴⁰ In addition, the CIA paid a great amount of money to the Toilers party to stop supporting Mossadegh.³⁴¹ Therefore, the CIA influenced Iranian domestic politics through propaganda as a method of political warfare to further their own anti-communism agenda.

Furthermore, the destabilizing campaign was not restricted to propaganda activities.³⁴² Weapons were dropped quietly to the paid off tribes and armed gangs, providing “amenable” groups with money, arms, materials, food, and personnel.³⁴³ For example, National Intelligence Estimate shows that about 10- 20 million U.S dollars were added to the accounts of participants in the overthrow of Mossadegh.³⁴⁴ Furthermore, the declassified documents confirm that the CIA was planning to organize indigenous resistance groups in an attempt to establish a government with a pro-western alignment.³⁴⁵ Therefore there is a body of evidence to show that the British and American forces planned to take active steps to ensure weakened support for Mossadegh through bribing influential figures and the dissemination of false information.

The first coup attempt failed on Saturday, August 15, 1953.³⁴⁶ On that day, CIA headquarters ordered Kermit Roosevelt, the senior CIA officer on the ground in Iran, to return to the U.S, but against orders he remained and organized a second coup on Wednesday, August 19, 1953.³⁴⁷ Roosevelt was able to use the U.S ambassador in Tehran, Loy Henderson, to deceive Mossadegh into ordering the people to stay home and calling in the armed forces to bring calm to the streets.³⁴⁸ Having secretly organized paid mobs and having already secured the support of high

³³⁷ Foreign Relations of the U.S, “Iran, 1951–1954,” 3.

³³⁸ Foreign Relations of the U.S, “Iran, 1951–1954,” 30.

³³⁹ Foreign Relations of the U.S, “Iran, 1951–1954,” 47.

³⁴⁰ Kinzer, “All the Shah’s Men,” 131.

³⁴¹ Anderson, “Whitewashing the Shah,” 21.

³⁴² Foreign Relations of the U.S, “Iran, 1951–1954,” 23.

³⁴³ Foreign Relations of the U.S, “Iran, 1951–1954,” 23.

³⁴⁴ Anderson, “Whitewashing the Shah,” 20.

³⁴⁵ Foreign Relations of the U.S, “Iran, 1951–1954,” 48.

³⁴⁶ Kazemzadeh, “An American Coup and the Roots of Middle East Terror,” 125.

³⁴⁷ Anderson, “Whitewashing the Shah,” 26.

³⁴⁸ Anderson, “Whitewashing the Shah,” 26.

ranking Shia clerics and the radical group Fadaian Islam, who brought their followers into the streets, Roosevelt then had one group of military officers attack Mossadegh's home and another take over the Tehran radio station.³⁴⁹ With the Shah's endorsement, General Fazlollah Zahedi assumed the position of prime minister and Mossadegh was placed under house arrest.³⁵⁰

The benefits received by the United States and Britain after the coup further points to the likelihood of their significant role. Notably, the coup launched the denationalization of Iran's oil industry.³⁵¹ In theory, the National Iranian Oil Company remained in charge, but in reality, a consortium gained full control over management, refining, production, and distribution of Iran's oil.³⁵² In this consortium, 40% of controlling shares went to the AIOC, which was renamed British Petroleum and 14% went to Royal Shell, therefore giving the majority vote to the British.³⁵³ Also, 40% of the shares went to a group of American firms and the remaining 6% of shares went to the French State Company.³⁵⁴ The consortium gave only 50% of its profits to Iran.³⁵⁵ In addition, Britain demanded Iran pay them 25 million pounds over a period of ten years as compensation.³⁵⁶ After the coup, the U.S. was regarded as the engineer and instructor of the dictatorial regime of Iran, which slowly became more under the control of the King, Reza Shah Pahlavi, rather than the prime minister.³⁵⁷ Iran's educated class believed that Western imperialism was behind every decision in the country, considering the Shah's interests were aligned with the free market economic and anti-communist interests of the United States and Britain.³⁵⁸ From 1953-1963, Iran entered a "dependent relationship" with the United States, and as a result, the country became extremely vulnerable to the power and pressure exerted by Washington D.C.³⁵⁹ As time went on, the Shah limited the power of the Majlis and established absolute authority in Iran.³⁶⁰ Meanwhile, the U.S. aided the Shah's regime through economic and military means as the Shah continued to

³⁴⁹ Kazemzadeh, "An American Coup and the Roots of Middle East Terror," 125.

³⁵⁰ Kazemzadeh, "An American Coup and the Roots of Middle East Terror," 125.

³⁵¹ Abrahamian, "The 1953 Coup in Iran," 184.

³⁵² Abrahamian, "The 1953 Coup in Iran," 184.

³⁵³ Abrahamian, "The 1953 Coup in Iran," 211.

³⁵⁴ Abrahamian, "The 1953 Coup in Iran," 211.

³⁵⁵ Abrahamian, "The 1953 Coup in Iran," 211.

³⁵⁶ Pashai, Homira. "For the Sake of Oil, for the Sake of Prestige Or for the Sake of Power: Did Cooperation among the Governments of the United States and Great Britain Contribute to the 1953 Coup of Iran?" *Dissertations Publishing*, 2011, 121.

³⁵⁷ Pashai, "For the Sake of Oil," 125.

³⁵⁸ Pashai, "For the Sake of Oil," 123.

³⁵⁹ Pashai, "For the Sake of Oil," 124.

³⁶⁰ Pashai, "For the Sake of Oil," 124.

gain power through fear, intimidation, and violence.³⁶¹ As a result, the Iranian public generally became distrusting and perceived the Shah's regime as a domestic instrument of American imperialism.³⁶²

MODERN REPERCUSSIONS

Kinzer asserts that the coup destroyed Iranian democracy and brought to power an authoritarian regime, which then started a domino effect throughout the region.³⁶³ The results include the destabilization and increased Islamic militancy, which are still being felt worldwide today.³⁶⁴ As the Shah gained more power, he repressed the democratic political process and therefore left the field open to right-wing Islamic fundamentalists who, in 1979, succeeded in overthrowing the Shah and establishing the first contemporary Islamist government.³⁶⁵ Moreover, the Iranian revolutionaries assisted other Islamic groups such as Lebanon's Hezbollah and Hamas.³⁶⁶ In addition, the Shah's success in Iran provided a model for Sunni fundamentalists around the Islamic world, including Osama Bin Laden.³⁶⁷ Kinzer argues that, had the U.S not overthrown Mossadegh, Iran would have consolidated its newfound democracy and in turn prevented the success of Islamic fundamentalism.³⁶⁸ Kinzer notes that operation TRAPJAX, "taught tyrants and aspiring tyrants that the worlds most powerful governments were willing to tolerate limitless oppression as long as oppressive regimes were friendly to the west and to western oil companies."³⁶⁹ Therefore the actions of the American and British forces in the 1953 Iran coup sparked further instability and Islamic nationalism in the region.

In sum, this paper has argued that the United States and Britain were the leading powers behind the 1953 coup d'état in Iran due to their imperial economic and political motivations. Through a Leninist imperial lens, this paper has explored the economic and political context in order to showcase the various motives of Britain and the U.S. In addition, with the newfound evidence outlining the multiple forms propaganda planned by the CIA shows their intentions to establish a pro-western government. While the U.S government succeeded for a long time in

³⁶¹ Pashai, "For the Sake of Oil," 124.

³⁶² Pashai, "For the Sake of Oil," 124.

³⁶³ Kinzer, "All the Shah's Men," 130.

³⁶⁴ Kinzer, "All the Shah's Men," 130.

³⁶⁵ Kinzer, "All the Shah's Men," 130.

³⁶⁶ Kinzer, "All the Shah's Men," 130.

³⁶⁷ Kinzer, "All the Shah's Men," 130.

³⁶⁸ Kinzer, "All the Shah's Men," 130.

³⁶⁹ Kinzer, "All the Shah's Men," 204.

covering up its role, it was not until March 2000 that for the first time an American official acknowledged the U.S role, and Britain has still not formally admitted to being part of the coup.³⁷⁰ The positive outcomes for both the U.S and Britain also provide a clearer picture of their considerable role in the intervention. In addition, scholars have argued that the coup has resulted in elevated insecurity and an uprising in Islamic militancy in the surrounding regions.³⁷¹ A Leninist perspective argues that imperial motivations of the U.S and Britain will continue in order to sustain their level of economic power. It is necessary to learn from the Iranian coup and to be aware of the consequences of foreign interventions moving forward.³⁷²

³⁷⁰ Kazemzadeh, "An American Coup and the Roots of Middle East Terror," 126.

³⁷¹ Kinzer, "All the Shah's Men," 22.

³⁷² Kazemzadeh, "An American Coup and the Roots of Middle East Terror," 127.

Bibliography

- Abrahamian, Ervand. "The 1953 Coup in Iran." In *Science & Society*, vol. 65, no. 2, 2001, pp. 182-215.
- Anderson, Kira C. "Whitewashing the Shah: Racial Liberalism and U.S. Foreign Policy during the 1953 Coup of Iran." In *Dissertations Publishing*, 2016.
- Bayandor, Darioush. "The Fall of Mosaddeq, August 1953: Institutional Narratives, Professor Mark Gasiorowski and My Study." In *Iranian Studies*, vol. 45, no. 5, 2012, pp. 679-691.
- Byrne, Malcolm. "Iran 1953: State Department Finally Releases Updated Official History of Mosaddeq Coup." In *National Security Archive Briefing Book No. 598*, 2017.
- Foreign Relations of the United States, 1952–1954, Volume X, Iran, 1951–1954*, eds. Carl N. Raether and Charles S. Sampson (Washington: Government Printing Office, 1989), Document 7.
- Gowan, Peter. "Triumphing Toward International Disaster: The Impasse in American Grand Strategy." In *Critical Asian Studies*, vol. 36, no. 1, 2004, pp. 3-36.
- Hobson, John "Chapter 1: The Measure of Imperialism." In *Imperialism, a Study*. J. Pott & Company, New York, 1902, pp. 15-29.
- Kazemzadeh, Masoud. "Review Essay All the Shah's Men: An American Coup and the Roots of Middle East Terror." In *Middle East Policy* vol. 11, no. 4, 2004. Pp. 122-129.
- Kinzer, Stephen. "All the Shah's Men: An American Coup and the Roots of Middle East Terror." *J. Wiley & Sons*, Hoboken, N.J, 2003.
- Lenin, Vladimir. "Imperialism the Highest Stage of Capitalism." In *Resistance Books*, Newtown, 1999.
- McMurdo, Torey L. "The Economics of Overthrow: The United States, Britain, and the Hidden Justification of Operation TPAJAX." In *Studies in Intelligence*, vol. 56, no.2, 2012, pp. 15-26.
- Monbiot, George. "It's Business That Really Rules us Now." In *The Guardian*, 2013.
- Pashai, Homira. "For the Sake of Oil, for the Sake of Prestige Or for the Sake of Power: Did Cooperation among the Governments of the United States and Great Britain Contribute to the 1953 Coup of Iran?" *Dissertations Publishing*, 2011.
- Smyth, Gareth. "Five Books on the Legacy of the 1953 Coup in Iran." In *The Guardian*, 2015.

Pre amble

Limitations of Global Power: A Comparative Analysis of China and the European Union

Bianca Washuta

China's rise as a formidable political, economic, and military global leader has been one of the most important developments to the modern system. Growing Chinese power wields potential to impact international markets, condition alliance relations, and shape the very nature of global governance in significant ways. This dynamic has called into question the existing balance of power, and in particular, shed light on the comparative social, military, political, and economic capacity of global actors beyond the Asia-Pacific region. In the context of Europe, the European Union (EU) is experiencing a state of regional and international decline inhibiting it from competing with other major powers and enacting significant change. In many ways, the rise of China has revealed the overall limitations of the EU to act as a strategic power in the realm of global politics.

This article aims to address the following question: How has the rise of China impacted the EU in the context of the global system? It will begin with a literature review of existing scholarship, followed by a brief overview of the evolving China-EU relationship. This article will then move to advance the argument at hand with a five-fold approach: first, by identifying the practical ineffectiveness of the EU-China "comprehensive strategic partnership", then by arguing there are limited areas of compatibility between China and the EU beyond the development of mutual economic and commercial ties. This article will then identify the contradictory normative premises through which either understands, and thus conducts, global relations and foreign policy. Subsequently, this article will demonstrate that the combination of domestic and regional dimensions to a legitimacy crisis currently underway in the EU has cast further doubt on its ability to exercise its role as an international actor. Finally, conclusions drawn from the China-EU relationship will be connected to the broader US-China hegemonic power dynamic. This article will conclude by highlighting suggestions for future policy and discuss potential outcomes in terms of the EU-China relationship moving forward.

Literature Review

Existing literature in China-EU studies is largely focused on the significant economic, commercial, and trade relations between both actors. More recently, scholars have identified patterns of Chinese investment activity in markets of individual EU member states, thereby highlighting repercussions this may wield on collective EU coherence.³⁷³ Since the EU is China's largest trading partner, speculation exists about the future of economic relations as China steadily rises and Europe continues to decline in influence.³⁷⁴ The bulk of this speculation is concentrated from 2003 onwards, after the establishment of a mutual "comprehensive strategic partnership" aiming to improve communication and foster deeper sociopolitical and security relations. However, scepticism is recurrent about the validity of this partnership as many reduce its capacity to economic and trade objectives, doubt the ability of the EU to play a significant role in years to come, and attribute lack of progress to the elusivity of China as a rising global power.³⁷⁵

Scholarship pertinent to the EU and China focuses on strategic implications for Europe in response to growing Chinese hegemony. Many voice concern regarding the global "one belt one road" (BRI) initiative, the future of the European bloc amidst internal disarray and Brexit, market fluctuation, and political clout, amongst other things. Additional literature compares declining EU relevance with other emerging powers, as well as the structural challenges and opportunities these dynamics present.³⁷⁶ Scholars, notably Chen, speculate on the limitations of the EU to function effectively not merely in response to China, but in the world system itself.³⁷⁷

Chinese security scholarship has exhibited decreasing interest in Europe as a whole. The EU is perceived to be a second-order and inferior matter with respect to other Chinese security concerns, such as the Sino-US dynamic and tension in South China Sea.³⁷⁸ Some argue that the EU-China relationship is conditional on fluctuating dynamics between China and the United States, or that Europe merely acts as a strategic buffer to diffuse rising tension.³⁷⁹ As such, Asian

³⁷³ Richard Maher, "The Elusive EU–China Strategic Partnership," *International Affairs* (2016).

³⁷⁴ Hannah Levinger and Syetarn Hansakul, "China and the EU: Where next in Bilateral Trade and Investment Relations?" *China-EU Law Journal* (2016): 55.

³⁷⁵ *Ibid.*

³⁷⁶ Jolyon Howorth, "EU Global Strategy in a Changing World: Brussels' Approach to the Emerging Powers," *Contemporary Security Policy* (2016); Jinghan Zeng, "Does Europe Matter? The Role of Europe in Chinese Narratives of 'One Belt One Road' and 'New Type of Great Power Relations'," *Journal of Common Market Studies* 55 (2017).

³⁷⁷ Zhimin Chen, "China, the European Union and the Fragile World Order," *Journal of Common Market Studies* (2016).

³⁷⁸ Jinghan Zeng, "Does Europe Matter? The Role of Europe in Chinese Narratives of 'One Belt One Road' and 'New Type of Great Power Relations'," (2017): 1162.

³⁷⁹ *Ibid.*, 1163.

security scholarship is directed primarily towards US relations and the EU represents a matter of peripheral consideration. The present EU-China relationship is characteristically elusive and almost entirely characterized by economic terms, thus, security is not a significant concern.³⁸⁰ The contradictory means through which China and the EU conduct international affairs suggests a range of implications for future relations, as well as for the world system overall. Though this is beginning to change, China has demonstrated a strong historical tendency towards bilateralism. Comparatively, the EU prefers to globalize European norms through the promotion of a rules-based world order and multilateral cooperation. This competing dynamic will likely be expanded upon in the literature as China's momentum and global influence continues to expand.

Context of the EU-China Bilateral Relationship

The context and focus of European-Chinese relations have certainly changed over time. In the post-Cold War era, given the demise of the Soviet Union and alleviation of pressure from the United States, Europe began spear-heading the European integration and growth process. European nation states played an important role in the liberal institutionalist order that characterized the post-Cold War era.³⁸¹ The EU was established in 1993, foreign policy was strengthened, and Europe began working to frame international order according to its own liberal democratic and normative image.³⁸² This explicit path of development was marked by the embodiment of both post-modern and post-sovereign features. Order-shaping ambitions began internally to the EU by transforming the existing European nation-state system into a geopolitical bloc with supranational power.³⁸³ Chen remarks the EU has become a status-quo global actor "characterized by the breaking down of [the] distinction between domestic and foreign affairs...the consequent codification of rules and behaviour, the growing irrelevance of borders, and security based on transparency, mutual openness, interdependence, and mutual vulnerability."³⁸⁴ Symbolizing mutual peace, prosperity, and liberal idealism, the EU has become integrated in the international system as a unique geopolitical bloc of nation states.

Perceived success of this growth model offers Europe power to influence both global and regional discourse. For example, as a transformative actor, the EU utilizes the accession process

³⁸⁰ Rem Korteweg, "A Presence Farther East: Can Europe Play a Strategic Role in the Asia-Pacific Region?" *Centre for European Reform* (2014): 8

³⁸¹ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 778.

³⁸² *Ibid.*, 778.

³⁸³ *Ibid.*, 778.

³⁸⁴ *Ibid.*, 778.

to liberalize domestic and foreign policy in prospective members. Becoming accepted into the EU entails adherence to European norms and values. States thus become induced or pressured to conform as much as possible to ensure access to material, economic, and sociopolitical incentives.³⁸⁵ Beyond regional concerns, the EU has also begun wielding this normative agility to shape international order. Globalizing rules-based European norms, such as liberal democracy, free markets, nuclear non-proliferation, and environmental awareness, all lead other economic and social conditions to manifest in its favour.³⁸⁶ The EU conducts foreign policy through global organizations, inter-regional relationships, and bilateral relationships with individual states.³⁸⁷

Europe has occupied a central role in Chinese foreign relations and academic discourse, given that their relations have intensified over the last three decades.³⁸⁸ Historically, Chinese understandings of great power are derived from an assessment of those already present in the West.³⁸⁹ In the context of the Cold War, China had been steadily cultivating relations with Western states since the early 1970s.³⁹⁰ During the 1990s, the regime struggled to restore itself following the dissolution of the Soviet Union and near collapse of the Chinese Communist Party (CCP).³⁹¹ As such, it aimed to maintain a neutral global environment and redirected its attention towards domestic turbulence.³⁹² Guiding bilateral power relations, such as those in Europe with the UK, France and Germany, became goals of Chinese foreign policy during this era.³⁹³ As China began the process of global integration, diplomacy was prioritized alongside strategic growth initiatives. China was under the impression that “changing itself [was] the main source of Chinese power, and [...] the main way [for] China to influence the world.”³⁹⁴ Thus, the regime focused on domestic development to enable external growth. Rapid industrialization, high volume exports, military expansion, investments in industry and manufacturing, and an expanding labour force resulted in impressive domestic prosperity.³⁹⁵

³⁸⁵Ibid., 778.

³⁸⁶ Ibid., 779.

³⁸⁷ Weiqing Song and Rodney Hall, "European Union's Construction of International Identity via Strategic Partnerships: Associating and Social Distancing," *Contemporary Politics* (2018):1

³⁸⁸ Thomas Christiansen and Richard Maher, "The Rise of China—challenges and Opportunities for the European Union," *Asia European Journal* 15 (2017): 124.

³⁸⁹ Jinghan Zeng, "Does Europe Matter?" (2017): 1162.

³⁹⁰ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 779

³⁹¹ Jinghan Zeng, "Does Europe Matter?" (2017).

³⁹² Ibid., 1164.

³⁹³ Ibid., 1168.

³⁹⁴ B. Zhang, "[Changing Oneself, Influencing the World]," *[Chinese Social Sciences]*, (2002).

³⁹⁵ Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 124.

China continued to solidify bilateral relations with Western powers – even liberalizing its economy to join the World Trade Organization (WTO) in 2001.³⁹⁶ This was a significant indication the regime supports open trade and became keen to assert itself.³⁹⁷ China surpassed Japan to become the second largest economy in the world in 2010, and by 2014, made up 60 percent of the EU economy.³⁹⁸ These developments focused attention towards China and has enabled it to wield significant political, military, and economic clout. In possession of United Nations Security Council (UNSC) veto power and pushing an ambitious agenda, China has become a significant force in shaping global order.³⁹⁹ In many ways, China's policy ambitions have inflated alongside its economic growth. Over time, expansion of the state has re-shaped regional security discourse, international markets, and the dynamics of state relations and global governance.⁴⁰⁰ Therefore, China is increasingly understood as a reformist power in the dynamic of global relations.⁴⁰¹ As a result, the rise of China raises unavoidable questions about the future of the global order.

Diplomatic and political ties between China and the Union have certainly broadened in the modern era. China-EU summits have been held annually since 1998, and examples of cooperation in security affairs are documented in issues of nuclear proliferation, counter terrorism, cyber warfare, and anti-piracy.⁴⁰² Over 50 official dialogues have been formalized addressing the extent of their relationship in many areas.⁴⁰³ Diplomatic ties have thus become normalized and cooperation on key global issues, particularly the environment and climate change, has gained mutual support from both sides. The establishment of a strategic, stable, and mutually favourable bilateral relationship with China is one of the EU's highest priorities in the contemporary era.⁴⁰⁴ Despite expanding relations, however, both bodies remain inherently divided global entities.⁴⁰⁵ In many ways, China reveals the limitations of the EU to act as a strategic and influential power in the international system. The following section will analyse how the lack of compatibility in interests and norms beyond economic and commercial ties is indicative of this notion.

³⁹⁶ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 780.

³⁹⁷ Jonathan Holslag, "The Elusive Axis: Assessing the EU–China Strategic Partnership," *Journal of Common Market Studies* (2011): 306.

³⁹⁸ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 780.

³⁹⁹ *Ibid.*, 780.

⁴⁰⁰ Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 121.

⁴⁰¹ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 781.

⁴⁰² Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 123.

⁴⁰³ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁰⁴ Jonathan Holslag, "The Elusive Axis," (2011): 295.

⁴⁰⁵ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

Limited Compatibility Beyond Economic and Commercial Ties

Commercial ties between China and the EU represent the most significant, and strategic, element of their relationship. Bilateral trade relations in 1978 reported a value of 4 billion EUR.⁴⁰⁶ By 2015, both actors shared the second largest economic relationship in the world (after the EU-US).⁴⁰⁷ Respectively, the EU is China's largest trading partner, and China is the EU's second largest trading partner.⁴⁰⁸ Trade value between the two reached 521 billion EUR in 2015 – effectively double that seen in 2006.⁴⁰⁹ According to the Chinese Global Investment Tracker, between 2005 and 2017, China invested \$309 billion in European markets compared to \$172 billion in the US.⁴¹⁰ These ties extend beyond traditional trade to include peripheral economic considerations such as capital flow, economic security issues, and foreign aid.⁴¹¹ However, as this is the only explicitly strategic element of their relationship, it sheds light on the ability of the EU to function as an adaptable, effective, and multi-faceted global power.

Despite current regional stagnation and the Eurozone crisis, the EU still remains the world's largest single market.⁴¹² Member states themselves are keen to further commercial relations with China and pursue activity – particularly in service-oriented economies.⁴¹³ However, Europe plays an increasingly marginalized role in the perspective of Chinese foreign policy. Much of this discourse focuses on gaining access to European markets to further economic interests, but beyond this, seldom pertain to other strategic concerns.⁴¹⁴ The EU is an ideal source for Chinese foreign direct investment (FDI) because it allows enterprises access to valuable commodities, namely technology, in exchange for financing.⁴¹⁵ China prioritizes global commercial opportunities, such as securing export markets and maintaining access to natural resources, above all.⁴¹⁶ From the Chinese perspective, Europe represents a mature market with many safe and

⁴⁰⁶ Loredana Jitaru and Lorena Popescu, "Economic Relations EU-China," (2017): 259.

⁴⁰⁷ Jolyon Howorth, "EU Global Strategy in a Changing World," (2016): 391.

⁴⁰⁸ Jing Men, "CHALLENGES TO THE EU-CHINA STRATEGIC PARTNERSHIP," *Eu-China Observer* (2012): 4.

⁴⁰⁹ Hannah Levinger and Syetarn Hansakul, "China and the EU: Where next in Bilateral Trade and Investment Relations?" (2016): 56.

⁴¹⁰ "China Global Investment Tracker." American Enterprise Institute.

⁴¹¹ Loredana Jitaru and Lorena Popescu, "Economic Relations EU-China," (2017): 257.

⁴¹² Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 123.

⁴¹³ Jie Yu, "The Belt and Road Initiative: Domestic Interests, Bureaucratic Politics and the EU-China Relations," (2018): 231.

⁴¹⁴ *Ibid.*, 231.

⁴¹⁵ Hannah Levinger and Syetarn Hansakul, "China and the EU," (2016): 65.

⁴¹⁶ Richard Maher, "The Elusive EU-China Strategic Partnership," (2016).

profitable opportunities for investment.⁴¹⁷ The EU has therefore played a central role in driving Chinese economic ambition and incentives. Relative to increasing commercial ties, cooperation on other issues, such as global security, is severely limited. As the strategic centre of gravity shifts east, the EU risks becoming strategically marginalized and denounced if it is unable to contribute to global security in tandem with China. The regime, as well as most of the Asia-Pacific, observes the EU as little beyond the role of a commercial and business partner and hardly consider the organization a strategic actor.⁴¹⁸ To be considered a global actor of consequence, a convergence over common security interests between China and the EU is imperative. Since the EU remains a mere economic partner, its position consequentially suffers. Further, its ability to function as an effective, strategic, and influential global actor is called into question.

Aside from economic considerations, there is virtually no strategic overlap between the EU and China. Rather, both actors possess different regional security occupations that inadvertently set their global interests apart. China's immediate geopolitical focus is situated in the Asia-Pacific amidst heightening tension in the South China Sea. Likewise, EU strategic interests are local to the regional European bloc.⁴¹⁹ Despite the significance of commercial ties, Europe has few direct claims in the Asia-Pacific and China has few in Europe. Further, it appears neither body is willing or able to contribute to the regional security interests of the other at this time.⁴²⁰ The EU has been largely excluded from the narrative of strategic Chinese global endeavours, such as the Belt and Road Initiative (BRI) and strengthened great power relations.⁴²¹ The EU's response to regional concerns in the Asia-Pacific, or lack thereof, are reflective of its own impeding limitations. As such, it is highly unlikely to occupy a strategic presence in China's most central geopolitical concerns – such as the prospect of Taiwanese independence or North Korea, for example.⁴²² Thus, in terms of geopolitics alone, China and the EU possess different regional considerations, given the lack of geographical proximity, which set them very far apart. Aside from commercial and economic ties, there is little to no compatibility between these actors. However, as China rises, it is imperative that the EU adapt in other ways to address the shifting landscape of power.

⁴¹⁷ Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 123.

⁴¹⁸ Jolyon Howorth, "EU Global Strategy in a Changing World," (2016): 392.

⁴¹⁹ Rem Koretweg, "A Presence Farther East" (2014): 3.

⁴²⁰ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴²¹ Jinghan Zeng, "Does Europe Matter?" (2017): 1164.

⁴²² Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

“Comprehensive” Strategic Partnership

The absence of compatibility outside economic and commercial ties is most observable in the ineffective China-EU “strategic partnership”. Efforts to transition from an exclusively economic relationship to a deeper sociopolitical partnership solidified in 2003 with a mutual agreement coined the “comprehensive strategic partnership”.⁴²³ The EU hoped that boosting its interaction with Beijing would catalyse sociopolitical liberalization in China and facilitate transparency, amongst other things.⁴²⁴ A Chinese regime more accepting of the European world order would be considered a more reliable global partner, therefore, less inclined to develop revisionist or destabilizing tendencies.⁴²⁵ By the same token, China perceived the EU as a counterweight to US hegemony and a crucial factor to the level distribution of global power and influence. It was announced in 2005 that the projected strategic partnership had been achieved. However, scholarly examination indicates this was not necessarily the case in practice.⁴²⁶

As it stands, China has become significantly more powerful, structural motivation has faded, and mutual global interests are not as evident anymore.⁴²⁷ Securing a transparent Chinese regime necessitates a compatibility of security interests with the EU, which historically has not been the case. Europe has been unsuccessful in developing strategic ties, therefore its objectives lack effectiveness. While dialogue and exchange has been consistent, joint statements lack definitive common concerns. Economic priorities have dominated almost all relations, and only recently have issues of global security received discernible attention.⁴²⁸ Moreover, only these commercial interests are translated into clear policy objectives. Other foreign policy priorities have been confined to dialogue of observation and awareness, rather than tangible bilateral cooperation.⁴²⁹ The EU seldom considers domestic discourse of China in conducting relations, but rather, relies on vague statements of awareness toward security developments and concern.⁴³⁰ In 2012, the European External Action Service (EEAS) published guidelines for EU foreign and security endeavours in East Asia. These guidelines identified a number of European interests and

⁴²³ Ibid.

⁴²⁴ Ibid.

⁴²⁵ Ibid.

⁴²⁶ Jonathan Holslag, "The Elusive Axis," (2011): 299.

⁴²⁷ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴²⁸ Jonathan Holslag, "The Elusive Axis," (2011): 299.

⁴²⁹ Ibid., 300.

⁴³⁰ Rem Koretweg, "A Presence Farther East" (2014): 2.

economic considerations, but discussion of how to conduct future action was avoided.⁴³¹ EU member states have limited military presence in the Asia-Pacific region, therefore, little opportunity exists to directly impact security discourse.⁴³² As such, a significant gap exists between the ambition of the partnership and the extent to which mutual aspirations are manifested in foreign policy.⁴³³

Further, strategic coordination is unattainable because neither entity recognizes the other as a strategic security partner.⁴³⁴ Europe is of peripheral importance to Chinese security and foreign policy in lieu of US hegemony. Economic interests aside, both parties struggle to discern the relevance and utility of their relationship compared to those of other powers.⁴³⁵ The EU still believes it has the power to sway authoritarian China towards liberal norms and values. In reality, China perceives multilateral actors, particularly the EU, as a means of pursuing its own ends.⁴³⁶ Thus emerges a unique balance of power between two competing agendas – both promoting their own interests and values, within the same framework.⁴³⁷ The strategic partnership has failed to transcend differences in social ideology and political institutions, therefore, failing to bridge the normative divide.⁴³⁸

Put simply, bilateral partnerships of global magnitude do not become strategic by just defining them as such.⁴³⁹ Most evaluations conclude that, if anything, the absence of common military interests prevents EU-China relations from earning an exclusive title in the first place.⁴⁴⁰ As highlighted earlier, Europe and China occupy two different geographical regions – each with different security concerns, interests, and global actors. Thus, there exists little to no overlapping strategic interest or spheres of influence.⁴⁴¹ There is no consensus amongst EU member states about the implications of the rise of China, or how to respond to security considerations of the Asia-Pacific region.⁴⁴² Maher speculates the balance of power in the Asia-Pacific would have to

⁴³¹ Richard Maher, "Europe's Response to China's Rise: Competing Strategic Visions," *Asia European Journal* (2017): 142.

⁴³² Rem Koretweg, "A Presence Farther East" (2014).

⁴³³ Jonathan Holslag, "The Elusive Axis," (2011): 299.

⁴³⁴ *Ibid.*, 308.

⁴³⁵ *Ibid.*, 293.

⁴³⁶ *Ibid.*, 308.

⁴³⁷ Richard Maher, "The Elusive EU-China Strategic Partnership," (2016).

⁴³⁸ Jing Men, "CHALLENGES TO THE EU-CHINA STRATEGIC PARTNERSHIP," (2012): 4.

⁴³⁹ Camille Brugier, "The EU's Trade Strategy towards China," *Asia European Journal* (2017): 201.

⁴⁴⁰ *Ibid.*, 200.

⁴⁴¹ Jonathan Holslag, "The Elusive Axis," (2011): 298.

⁴⁴² Richard Maher, "Europe's Response to China's Rise: Competing Strategic Visions," (2017): 143.

escalate considerably, or China would have to become much more destabilizing, for Europe to become strategically involved in the Asian security community. Both parties could certainly benefit from mutual relations of a strategic nature but have yet to capitalize on the opportunity. As China asserts itself, the EU becomes hindered by its own insecurities. Therefore, this strategic partnership is fundamentally limited, at best.⁴⁴³ These limitations, both on paper and in practice, parallel those evident of the EU to function as a strategic global power.

Contradictory Normative Premises of International Relations

Aside from strategic cooperation, the EU and China support contradictory normative premises of foreign relations. This distinction manifests fundamental differences in the methods through which either actor conducts diplomacy and global affairs.⁴⁴⁴ At the international level, China behaves in a way that emphasizes its power and undeniable political, military, and economic power and influence. Differences in EU-Chinese dynamics have led scholars, such as Chen, to describe the relationship as “two order-shapers in different directions.”⁴⁴⁵ This dynamic reveals that when it comes to equating power and leverage with China, the EU remains at a steep disadvantage.

In the context of global relations, China has exhibited an implicit preference for realism. It conducts foreign policy in a way that prioritizes features such as the defence of state sovereignty, non-interference, the right of each country to decide the nature of its own sociopolitical system, and action based on consensus rather than supranational governance.⁴⁴⁶ This approach to national interest contrasts the traditional value-based approach preferred by the EU.⁴⁴⁷ China rejects many of the Western-oriented principles the EU embraces and seeks to promote around the world, such as human rights and democracy.⁴⁴⁸ On the world stage, the EU works in ways to further the existing international order through peaceful negotiations and the promotion of liberal norms, values, and domestic practices.⁴⁴⁹

⁴⁴³ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁴⁴ Jie Yu, "The Belt and Road Initiative: Domestic Interests, Bureaucratic Politics and the EU-China Relations." *Asia European Journal* (2018): 231.

⁴⁴⁵ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 781.

⁴⁴⁶ *Ibid.*, 783.

⁴⁴⁷ *Ibid.*, 780.

⁴⁴⁸ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁴⁹ Richard Maher, "Europe’s Response to China’s Rise: Competing Strategic Visions," (2017): 137.

Further, it has become characteristic of China to use other global actors as a means of projecting its own standards and expectations – often at the direct expense of the EU.⁴⁵⁰ Within the UN and WTO, for example, Chinese-EU relations have become highly asymmetrical. The EU uses these organizations to promote idealism, whereas China considers them to be arenas for projecting alternative norms and deflecting Western criticism.⁴⁵¹ In response, the EU is often inhibited by the contradictory nature of its own agenda, which implies pursuing strategic objectives while simultaneously promoting the European value system.⁴⁵² Holslag argues multilateralism represents an arena of contest that rather than promoting effective global governance, is becoming increasingly less in accordance with European norms.⁴⁵³ As such, while the EU's approach to global governance is conceptualized as “constitutionalism based on human rights”, it is distinct from Chinese “egalitarianism based on sovereignty.”⁴⁵⁴

In particular, contrasting views of national sovereignty have created friction on the merit of intervening in other state's internal affairs. Manipulating economic power in this way has historically been a strategic mechanism of Europe. However, China neglects to tie trade agreements or foreign aid to the improvement of human rights or political institutions, for example.⁴⁵⁵ Consequentially, states that previously relied on the EU for financial assistance are diverting attention towards China – establishing Chinese economic leverage and undermining European bargaining power. This friction identifies a considerable gap in the positions from which either body perceives, and thus conducts, global relations. Further, it inhibits their ability to effectively cooperate while revealing inherent limitations of the European bloc. As China continues to assert itself, the EU appears feeble by contrast. This dynamic is likely to become increasingly exacerbated.

Internal and External Legitimacy Crisis

Perhaps the most evident indication of limitations in the EU is the internal and external legitimacy crisis it is currently experiencing. This narrative has collectively affected perceptions of the EU as an effective global power amongst member states, within European populations, and

⁴⁵⁰ Jonathan Holslag, "The Elusive Axis," (2011): 309.

⁴⁵¹ Ibid., 306.

⁴⁵² Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁵³ Jonathan Holslag, "The Elusive Axis," (2011): 308.

⁴⁵⁴ C Zhao, "[A Comparative Study of Global Governance Concepts of EU, U.S. and China]," (2012).

⁴⁵⁵ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

on the world stage. Further, this dynamic has inhibited the actor from establishing a policy approach to China that correlates with its strategic ambitions. For the purpose of clarity, the following section will present a three-fold analysis of the legitimacy crisis and how it indicates the existence of fundamental EU limitations in projecting its status as an international actor – beginning first with member state fragmentation and bilateralism, followed by regional turmoil such as the Eurozone crisis and Brexit, and concluding with inadequate global power relations.

It is common knowledge that individual EU member states rarely act in unison, or defer to institutions of the Union in conducting foreign relations.⁴⁵⁶ Members are free to maintain control over their individual foreign policy, despite the existence of a European Common Foreign and Security Policy. Thus, the organization reflects a tangled and uncoordinated collective of separate and distinct bilateral interests advanced by the UK, France, and Germany, in particular. These member states, among several others, wield a more comprehensive and strategic foreign policy towards China than the EU itself.⁴⁵⁷ The UK emphasizes the development of stronger diplomatic, economic, defence, and security relations. Likewise, France projects a future diplomatic and economic pivot to Asia, and Germany prioritizes exports alongside trade and commercial relations.⁴⁵⁸ As China prefers to conduct foreign policy through a ‘divide and rule’ type of bilateralism, rather than directly with the EU, member states tend to compete with each other to expand their own interaction.⁴⁵⁹ China takes advantage of the absence of unified EU policy, in turn, maximizing the potential of strategic bilateral relations.⁴⁶⁰ In this regard, China has the power to wield economic leverage with the potential of provoking internal fragmentation within the EU.⁴⁶¹

Closer ties with China are often inseparable from economic interests, thus, this dynamic occurs even at the expense of EU-driven policy or initiatives.⁴⁶² Bilateral discourse between China and member states weaken EU cohesion and prevents it from establishing a coherent and strategic approach towards China.⁴⁶³ Fox and Godement compare this dynamic to “a game of chess with

⁴⁵⁶ Rem Koretweg, "A Presence Farther East" (2014): 8.

⁴⁵⁷ *Ibid.*, 8.

⁴⁵⁸ *Ibid.*, 8.

⁴⁵⁹ Rem Koretweg, "A Presence Farther East" (2014).

⁴⁶⁰ Loredana Jitaru and Lorena Popescu, "Economic Relations EU-China," (2017): 262.

⁴⁶¹ Jinghan Zeng, "Does Europe Matter?" (2017): 1165.

⁴⁶² Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁶³ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

[28] opponents arguing about the piece that needs to be moved.”⁴⁶⁴ For these reasons, the EU struggles to construct a common foreign security policy and equate itself with other strategic global powers.

Additionally, regional and domestic turmoil within the European bloc has presented a subsequent array of limitations. In the last several years, Europe has become preoccupied with issues such as the Eurozone debt crisis, refugee crisis, Russian assertiveness, fragile conditions in the Ukraine, and Brexit, respectively.⁴⁶⁵ In addition, the rise of polarizing and populist political movements within a number of EU member states exacerbated tensions between the EU and sovereigntist members, such as Greece and Hungary.⁴⁶⁶ These internal concerns have made the European bloc less capable of demonstrating effective leadership, both regionally and at the international level.⁴⁶⁷ Furthermore, they continue to impede the overall functionality of the EU and give way to a sense of long-term uncertainty and apprehension about the global role of the EU. From the Chinese perspective, the EU internal and external crises are indicative of decline.⁴⁶⁸ As a result, attention has been directed elsewhere and the influence of the EU on global affairs further reevaluated.

Moreover, the EU as a whole has exerted ineffective, or feeble, relations with China in particular but other global powers in general. This dynamic is a representation of limitations imposed on the EU and its inability to function effectively in the world context. Relative to other global powers, the EU is not considered comparable.⁴⁶⁹ The EU has very little leverage with other major powers, as well as an inconclusive and unclear grasp of how to engage with them.⁴⁷⁰ Likewise, global actors are unsure of how to engage with the EU as a whole.⁴⁷¹ For this reason, strategic bilateralism in Europe is not a foreign policy tendency unique to China.⁴⁷² In a study conducted of the frequency with which actors are referred to as great or rising powers in Chinese discourse, the EU was mentioned only 8.5 percent of the time.⁴⁷³ Zeng shows that when

⁴⁶⁴ J. Fox and F. Godement, *A Power Audit of EU-China Relations*, (2009).

⁴⁶⁵ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁶⁶ Zhimin Chen, "China, the European Union and the Fragile World Order," (2016): 779.

⁴⁶⁷ Jinghan Zeng, "Does Europe Matter?" (2017): 1173.

⁴⁶⁸ *Ibid.*, 1173.

⁴⁶⁹ Jolyon Howorth, "EU Global Strategy in a Changing World," (2016): 389

⁴⁷⁰ Jolyon Howorth, "EU Global Strategy in a Changing World," (2016): 389.

⁴⁷¹ *Ibid.*, 389.

⁴⁷² *Ibid.*, 389.

⁴⁷³ Jinghan Zeng and Shaun Breslin, "China's 'new Type of Great Power Relations,'" *International Affairs*, (2016): 793.

considering global issues, it is not uncommon for China to neglect differentiating between the EU as a unit, individual member states, or Europe as an undefined, ambiguous entity.⁴⁷⁴ To some degree, this can be attributed to a general lack of understanding, but also the structural opacity of the EU and how it presents itself at the international level.

Ultimately, a significant gap exists between China's expectations of the EU and the EU's capacity to meet these expectations. From the perspective of China, the European bloc has failed to demonstrate potential.⁴⁷⁵ Further, expanding Chinese strategic interests have prompted the state to shift towards increasingly complex diplomacy – potentially losing sight of the EU en route.⁴⁷⁶ For these reasons, EU relations with other global powers in general, and China in particular, reveal a complicated dynamic of interaction, expectations, perception, and overall understanding.⁴⁷⁷ These narratives shed light on limitations of the EU to function as an effective global power.

With Regard to Power Transition and the China-US Dynamic

The following section speculates on the potential role a limited EU could play in managing growing US-China hegemonic tension. This emergent power transition dynamic certainly offers opportunities for Europe, but ultimately leads to new and unpredictable challenges for the future of global order.⁴⁷⁸ From the Chinese perspective, Zeng speculates that Brussels will eventually be excluded from US-China discourse entirely.⁴⁷⁹ As tensions in the South China Sea continue to represent an arena of political and military power, critical economic and security concerns of the EU will soon become threatened. Despite this, EU action in the region thus far has been uncoordinated, hesitant, and feeble.⁴⁸⁰ Relative to regional concerns, Brussels does not consider tensions between the US and China in the Asia-Pacific an immediate threat.⁴⁸¹ As economic ties between China and Europe deepen, however, it would be incredibly irresponsible of the EU to perpetuate this norm and continue acting with such ambivalence. At the very least, and with respect to the historical precedence of the US pivot to Asia, the EU must develop a security strategy concerning the Asia-Pacific moving forward. It is consequential of this reluctance that Brussels is

⁴⁷⁴ Jinghan Zeng, "Does Europe Matter?" (2017): 1171.

⁴⁷⁵ *Ibid.*, 1167.

⁴⁷⁶ *Ibid.*, 1173.

⁴⁷⁷ Jolyon Howorth, "EU Global Strategy in a Changing World," (2016): 398.

⁴⁷⁸ Richard Maher, "Europe's Response to China's Rise: Competing Strategic Visions," (2017): 134.

⁴⁷⁹ Jinghan Zeng, "Does Europe Matter?" (2017).

⁴⁸⁰ Rem Koretweg, "A Presence Farther East" (2014): 1.

⁴⁸¹ *Ibid.*, 5.

discredited by some as a “cushion” against mounting US pressure to contain China – thus, only a function of broader, more significant, relations between Beijing and Washington.⁴⁸²

By this notion, however, Europe is presented with the unique opportunity to establish a strategic middle ground, or buffer zone, to counter-weight pressure between these entities. In the context of prevalent cyber warfare, economic trade wars, and artificial intelligence, strategic assertion may enable the European bloc to redeem itself. To this extent, the US may also be able to work alongside European member states to establish collective standards of transparency and policy recommendations in engaging China through “soft” power moving forward. Establishing partnerships and security cooperation with the US in the Asia-Pacific could structurally impede China from facilitating global fragmentation and engaging in threatening behaviour.⁴⁸³ Failure to act in this context only reiterates the regional limitations of Europe to exercise power elsewhere in the world. The conclusive role of the European bloc, however, has yet to be fully determined within this dynamic.

Policy Recommendations and Future Prospects

The following section explores the merit of potential foreign policy initiatives between China and the EU, exclusively, moving forward. Some scholars, such as Christiansen and Maher, are hopeful about prospects for the EU in the context of a rising China.⁴⁸⁴ They do acknowledge, however, the sense of insecurity over how China will exercise leverage in regions beyond its own. In lieu of the current European “hodgepodge” approach to Chinese engagement, there is a multitude of effective strategies that could conversely be adopted.⁴⁸⁵ First and foremost, it is crucial for the EU to identify the most important objectives at stake, the potential threats to these objectives, and what the most strategic foreign policy mechanisms to protect these objectives and advance EU interests are.⁴⁸⁶ Some scholars advocate for an approach of strategic military and political balancing to counteract rising Chinese influence. However, in the context of Europe, China’s rise alone does not pose a fundamental threat to European interests.⁴⁸⁷ Thus, it may be wise to adopt a more integrative approach to future foreign policy and bilateral interaction.

⁴⁸² Jonathan Holslag, "The Elusive Axis," (2011): 308.

⁴⁸³ Richard Maher, "Europe’s Response to China’s Rise: Competing Strategic Visions," (2017): 135.

⁴⁸⁴ Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 122.

⁴⁸⁵ Richard Maher, "Europe’s Response to China’s Rise: Competing Strategic Visions," (2017): 133.

⁴⁸⁶ *Ibid.*, 134.

⁴⁸⁷ *Ibid.*, 138.

This article is cautiously optimistic about the potential for Europe to mobilize and re-establish its status as a global power in years to come. A crucial step in doing so, arguably, is a re-evaluation of the existing “comprehensive strategic partnership” with China. As stated previously, the EU-China relationship has proven to be the opposite of “comprehensive”, with an emphasis on trade and commercial relations to the detriment of common strategic concerns and security cooperation. This relationship, however, has potential to turn into something more meaningful and tangible in the near future. The framework and intentions of the partnership have already been established on paper. Future steps can thus be undertaken to develop existing mechanisms in practice. The following suggests there is possibility to do so through strategic economic diplomacy and the development of sociopolitical connections.

Europe is uniquely situated in this context with respect to its nature as a hybrid global actor. EU institutions have potential to matter just as much as the will of individual member states, who are playing an increasing role both within Europe and on the world stage, including in Asia to some degree.⁴⁸⁸ An important consideration moving forward is for both entities, the EU and individual member states, to continue perpetuating constructive economic relations with China. Establishing independent foreign policy frameworks that consolidate respective bilateral interests with China is invaluable, however, these interests should not consequentially undermine institutions of the EU. This is a contradictory dynamic that has recurrently impeded the ability of the EU to command legitimacy and establish global clout. As Chinese action in the South China Sea continues to threaten the economic interests of EU member states, as well as the international norms that the EU embodies, increased collaboration within the EU in relation to strategic engagement in the Asia-Pacific is imperative. The EU and individual member states should act in solidarity and work together to ensure both individual and collective European interests with regards to China and in the Asia-Pacific are met, instead of working at the direct expense of one another.⁴⁸⁹

Further, the EU should prioritize strategic “starting points” to establish broader and deeper relations with China moving forward, in the sense of focusing on existing footholds to capitalize and build upon the global position it has already established. Environmental concerns, as well as

⁴⁸⁸ Michael Smith, "EU-China Relations and the Limits of Economic Diplomacy," *Asia European Journal*, (2014): 39.

⁴⁸⁹ *Ibid.*, 40.

economic and commercial relations are excellent examples of this dynamic. As a response to ongoing challenges in the China-EU relationship, the EU should strengthen existing economic diplomacy to its direct advantage. Establishing comprehensive deliberation, representation, communication, and negotiation in economic terms will enable the EU to maximize its gains in an area of pre-established strength, which could be further extended to other domains. Economic diplomacy has long been a foreign policy mechanism of the EU, for example through enforcing sanctions on countries against human rights violations or for humanitarian purposes. It is, however, one that has not been exercised in the context of Chinese relations.⁴⁹⁰ The EU does not publicize China's poor human rights record, but has rather chosen to separate this conflict of values from existing trade relations.⁴⁹¹ Re-evaluating the potential of strategic economic diplomacy within the EU, and amongst member states, represents a potential starting point for broader engagement and the re-assertion of European legitimacy. Doing so may shed light on the potential for dialogue of a long-term free trade agreement in the future.⁴⁹² Economic diplomacy also represents a means to understand the China-EU relationship more deeply, and restructure it, if need be.

Inherent to the China-EU relationship are unavoidable issues of trust and misunderstanding. China is a characteristically enigmatic global power that often contrasts with the norms and values promoted by the EU. Though difficult to achieve, developing a collectively transparent and mutual understanding would alter this dynamic in many meaningful ways. Doing so would eliminate the tendency of either actor to define global interests through the lens of their own narrative.⁴⁹³ Transcending this impediment, even minimally, is a crucial step in consolidating the potential of future relations. Establishing trust identifies additional potential for a "soft" EU influence on Chinese domestic policy through social relations and structures.⁴⁹⁴ Both actors would thus be able to establish mutual expectations and perceptions of one another – stream-lining the future of foreign policy. It is important to acknowledge that mistrust is an inherent characteristic of most bilateral global relationships, and extremely difficult to overcome. Nonetheless, doing this wields enormous potential in the China-EU context.

Conclusive Sentiments

⁴⁹⁰ Richard Maher, "The Elusive EU–China Strategic Partnership," (2016).

⁴⁹¹ Thomas Christiansen and Richard Maher, "The Rise of China," (2017): 129.

⁴⁹² Hannah Levinger and Syetarn Hansakul, "China and the EU," (2016): 56.

⁴⁹³ Michael Smith, "EU-China Relations and the Limits of Economic Diplomacy," (2014): 41.

⁴⁹⁴ *Ibid.*, 45.

This article has argued that the rise of China has ultimately shed light on the collective limitations of the EU to act as a strategic global power. China and the EU share limited compatibility of interests beyond economic and commercial ties, have established an entirely ineffective “strategic partnership” in practice and project contradictory normative premises of how to conduct international relations in the global sphere. In addition, the EU is increasingly debilitated by a crisis of internal and external legitimacy, which hampers its ability to project power beyond its immediate regional vicinity. These variables have functioned together to impede the EU’s status as a global power, and undermine its strategic potential in the context of a rising China. There is hope for redemption, but the EU must first be willing to consolidate these matters by focusing on strategic areas of existing relations. Ultimately, the potential benefit of a strategic Europe engaging China more constructively and effectively will only increase, at a time of growing major power rivalry. There is immense potential for future discourse if the EU is able to rise to the challenge.

Bibliography

- Brugier, Camille. "The EU's Trade Strategy towards China: Lessons for an Effective Turn." *Asia European Journal* 15 (March 28, 2017): 199-212. Accessed November 20, 2018. doi:0.1007/s10308-017-0475-4.
- Chen, Zhimin. "China, the European Union and the Fragile World Order." *Journal of Common Market Studies* 54, no. 4 (2016): 775-92. Accessed November 20, 2018. doi:10.1111/jcms.12383.
- "China Global Investment Tracker." American Enterprise Institute. Accessed November 25, 2018. <http://www.aei.org/china-global-investment-tracker/>.
- Christiansen, Thomas, and Richard Maher. "The Rise of China—challenges and Opportunities for the European Union." *Asia European Journal* 15 (April 4, 2017): 121-31. Accessed November 20, 2018. doi:10.1007/s10308-017-0469-2.
- Fox, J., and F. Godement. *A Power Audit of EU-China Relations*. Report. European Council on Foreign Relations. Cambridge, London: European Council on Foreign Relations, 2009.
- Heisbourg, Francois. "Brexit and European Security." *Global Politics and Strategy* 58, no. 3 (May 2016): 13-22. Accessed November 20, 2018. doi:10.1080/00396338.2016.1186973.
- Holslag, Jonathan. "The Elusive Axis: Assessing the EU–China Strategic Partnership." *Journal of Common Market Studies* 49, no. 2 (2011): 293-313. Accessed November 20, 2018. doi:10.1111/j.1468-5965.2010.
- Howorth, Jolyon. "EU Global Strategy in a Changing World: Brussels' Approach to the Emerging Powers." *Contemporary Security Policy* 37, no. 3 (2016): 389-401. Accessed November 20, 2018. doi:10.1080/13523260.2016.1238728.
- Jitaru, Loredana, and Lorena Popescu. "Economic Relations EU-China - the Mechanism That the European Union Outlines the Position of the Economic Actor." *CES Working Papers*, 3rd ser., IX (2017): 255-71. Accessed November 20, 2018.

- Koretweg, Rem. "A Presence Farther East: Can Europe Play a Strategic Role in the Asia-Pacific Region?" *Centre for European Reform*, June 2014, 1-17. Accessed November 20, 2018.
- Levinger, Hannah, and Syetarn Hansakul. "China and the EU: Where next in Bilateral Trade and Investment Relations?" *China-EU Law Journal* 5 (July 7, 2016): 55-71. Accessed November 20, 2018. doi:10.1007/s12689-016-0062-y.
- Maher, Richard. "The Elusive EU–China Strategic Partnership." *International Affairs* 92, no. 4 (2016): 959-76. Accessed November 20, 2018.
- Maher, Richard. "Europe's Response to China's Rise: Competing Strategic Visions." *Asia European Journal* 15 (March 24, 2017): 133-45. Accessed November 20, 2018. doi:10.1007/s10308-017-0470-9.
- Men, Jing. "CHALLENGES TO THE EU-CHINA STRATEGIC PARTNERSHIP." *Eu-China Observer: College of Europe*, no. 6 (2012): 4-9. Accessed November 20, 2018.
- Smith, Michael. "EU-China Relations and the Limits of Economic Diplomacy." *Asia European Journal* 12 (2014): 35-48. Accessed November 20, 2018.
- Song, Weiqing, and Rodney Hall. "European Union's Construction of International Identity via Strategic Partnerships: Associating and Social Distancing." *Contemporary Politics*, 2018, 1-18. Accessed November 20, 2018. doi:10.1080/13569775.2018.1497463.
- Yu, Jie. "The Belt and Road Initiative: Domestic Interests, Bureaucratic Politics and the EU-China Relations." *Asia European Journal* 16 (March 28, 2018): 223-36. Accessed November 20, 2018. doi:10.1007/s10308-018-0510-0.
- Zeng, Jinghan. "Does Europe Matter? The Role of Europe in Chinese Narratives of 'One Belt One Road' and 'New Type of Great Power Relations'." *Journal of Common Market Studies* 55, no. 5 (2017): 1162-176. Accessed November 20, 2018. doi:10.1111/jcms.12535.
- Zhang, B. "Gaibian Ziji Yingxiang Shijie" [Changing Oneself, Influencing the World]. *Zhongguo Shehui Kexue [Chinese Social Sciences]* 1, no. 1 (2002): 4-19. Accessed November 20, 2018.

Zhao, C. "Zhongmeiou Quaniuzhiliguan Bijiao Yanjiu Chutan [A Comparative Study of Global Governance Concepts of EU, U.S. and China]." *Guoji Zhengzhi Yanjiu [Studies on International Politics]* 3 (2012): 86-103. Accessed November 20, 2018.