The Syrian Refugee Crisis Within Europe: A Matter of Politics, not Capacity

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THE SYRIAN REFUGEE CRISIS WITHIN EUROPE:
A MATTER OF POLITICS, NOT CAPACITY

SUBMITTED TO
PROFESSOR WENDY LOWER

WRITTEN BY
ANITA FRANCES SHENOI

FOR
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ABSTRACT

This thesis examines factors that enabled the influx of Syrian refugees to the European Union, and traces their plight in Europe as one of the greatest humanitarian crises since World War II. The migration of refugees to European countries is a result of Syrians facing religious, racial, and social persecution, and immediate danger from proximity to on the ground conflict in Syria. The Syrian refugee crisis in Europe is occurring, in part, because there is a concentrated effort on behalf of Member States to change the definition of displacement to fit narratives more conducive to each countries’ individual preferences. European political agendas, which are increasingly influenced by populist opinions, often frame refugees in an unfavorable light and are supported through state-sponsored propaganda that promotes xenophobic sentiments. European anti-immigrant sentiments and prejudices fuel further unwillingness to allow “others,” including those fleeing direct danger, into “their” countries and societies.1 While the registering and processing of migrants is a difficult yet manageable task for Europe’s southeastern countries, the struggle to carry out these tasks has been exacerbated by fear and distrust of refugees combined with the lack of support and financial aid from the rest of Europe. This thesis is supported by data collected in public opinion polls, country case studies of mass media coverage (newspapers and social media images), and a survey of the international humanitarian law that should be upheld by the member states of the European Union.

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INTRODUCTION

In March 2011, a group of boys tagged the walls of their school with a pro-democracy and anti-regime slogan that ultimately sparked a chain of events that led to the second deadliest war of the 21st century and the current Syrian refugee crisis.\(^2\) Having occurred in a small Syrian farming town near the border of Turkey, this incident garnered global recognition and demonstrated the shocking way that the Syrian government overextended its authority by arresting and torturing the boys. The government’s decision to severely punish them led to repercussions that were extensive and atrocious. President Bashar al-Assad immediately dispatched security forces into the city, who used intimidation and force to procure names from the townspeople of who might have been involved. This witch hunt led to the naming of fifteen boys between the ages of 10 and 15 whom the police suspected were complicit.\(^3\) The boys were detained for two weeks during which they were excessively tortured and severely abused under the direct supervision of General Atef Najib, a cousin of Assad.\(^4\) When the desperate families reached out to Najib with pleas that these were their only children, he brazenly responded to them, “Send us your wives, and we will make you new children,” a callous comment that prefaced just one of the brutal techniques Assad’s forces used to forcefully subdue the Syrian people.\(^5\)

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\(^3\) Michael Weiss and Hassan Hassan, *Išis: inside the Army of Terror* (New York: Regan Arts, 2016), 126.


The sadistic nature of the reaction from Assad’s regime was completely unwarranted by the situation, and in direct violation with international human rights codes regarding torture, inhumane, and degrading treatment. The cruel treatment of these young boys was received by the Syrian people as a horrific tragedy – it was shocking for them to see the government retaliate with such severe force in response to an arguably irresponsible and trivial act of defiance by a group of children and teenagers. In late March, when Syr 

ics voiced this through peaceful demonstrations, with no intention of any further methods of protesting, Assad’s security forces once again sided with brutality, massacring unarmed protestors with bullets and kidnapping others at the riots, including young children who attended with their families, who the Syrian government tortured to death before delivering the mutilated bodies back to the families. It was this progression of events, and the unapologetic and violent actions of Assad’s government that instigated the second deadliest war of the 21st century, and the current Syrian refugee crisis.

Over the last nine years, the Syrian civil war has resulted in the external displacement of over 5.6 million Syrians, and the internal displacement of more than 6.6 million Syrians. The millions who fled created a crisis within both European society and leadership about how to best respond. At first Syria’s Arab neighbors absorbed most of the refugees. Between 2011 and 2014, the overwhelming majority of refugees from the

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6 Chapter I further elaborates on the international human rights codes regarding torture, inhumane, and degrading treatment.
Syrian crisis sought refuge in Turkey, Lebanon, Iraq, and Jordan.\textsuperscript{10} By 2014, Middle Eastern countries had accepted millions of Syrian citizens who had been displaced, and the effect it was having on the countries was apparent. Lebanon, with a population of 4 million, had received over 1 million Syrians, which the United Nations predicted they would need $1.6 billion to manage, a budget they had less than a quarter of.\textsuperscript{11} As it became clear that the conclusion of the conflict was not near, the United Nations High Commissioner for Refugees, in collaboration with the EU Home Affairs Commissioner Cecelia Malmstrom began advocating for European Member States to accept a higher quota of refugees within the year, with many Member States pledging to welcome the refugees.\textsuperscript{12} In August 2015, German Chancellor Angela Merkel memorably welcomed refugees after Germany decided to suspend the Dublin Regulation, which allows Member States to send refugees seeking asylum back to the country they first arrived in to seek asylum.\textsuperscript{8} The countries that serve as the most common point of entry for refugees entering the EU are those bordering the Mediterranean Coast such as Greece, Italy and Spain. This regulation was largely supported by northern EU states, who realized that it would allow them to save expenses, as most refugees enter through the south. As the civil war progressed, and thousands more refugees fled to the EU’s borders, northern Member States shied away from the responsibility of accepting them, leaving the overwhelming


responsibility to poorer, northern states, displaying their choice to prioritize national self-interest over the protection of human lives.

The picture below provides a visual representation of where and by whom Syrian refugees have been accepted as of 2017. The vast majority of territories that have accepted the Syrian refugees are located in the Middle East. Countries in the Middle East and North Africa account for more than 5 million Syrian refugees.

According to the UNHCR, Turkey has welcomed 3.4 million, Lebanon has accepted more than 1 million, Jordan has taken in 660,000, and Iraq allowed in 250,000. Egypt and Libya account for more than 150,000 Syrians. The European Union now has approximately one million Syrians refugees and asylum seekers within its borders. With a population of 446 million, this accounts for less than 0.2 percent of the EUs population.

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As only 0.2 percent of the EU population, the number of refugees in Europe does not seem to be as unmanageable as it has been presented. Likewise, it does not seem to have uncontrollably escalated into a humanitarian crisis. The dichotomy between what basic human resources these vulnerable populations need and what is provided in Europe is what has transformed this into a critical large-scale humanitarian crisis – an “event that is threatening in terms of health, safety, or wellbeing of a community or large group of people.”\(^\text{18}\) As such, the international community and countries of arrival are \textit{compelled} by international law and treaties to provide asylum seekers with protection, shelter, and basic human rights. The escalation of this situation into an unacceptable humanitarian crisis and the lack of active measures taken to mitigate the severity, support claims that certain Member States are prioritizing privatized agendas with a cost of enabling a collective oppression of the displaced, who by these international agreements they are obligated to help. This thesis delves into the plight of Syrian refugees in Europe as a window into several issues that had been developing in Europe and were exacerbated by and exposed by the refugee crisis.

The ‘migration of refugees’ to European countries is a result of Syrian natives facing religious, racial, and social persecution, and immediate danger from proximity to on the ground conflict.\(^\text{19}\) The Syrian refugee \textit{“crisis”} in Europe is occurring [in part] because there is a concentrated effort on behalf of Member States to change the definition of displacement to fit narratives more conducive to each countries’ individual


\(^{19}\) United Nations, “Syria Emergency.”
preferences. These agendas, which have been proved to be influenced by populist opinions, often frame refugees in an unfavorable light and under falsely constructed narratives and are supported through propaganda that promotes xenophobic sentiments, which results in a further unwillingness to allow “others” into their countries and societies.\textsuperscript{20} While the registering and processing of migrants is a difficult yet manageable task for the southern countries, the struggle to enforce it is exacerbated by fear and distrust of refugees combined with the lack of support and financial aid from the rest of Europe.

Chapter I delves into the specificity and details of the standing human rights instruments which provide legal guidance on the agreed upon conditions which must be provided to asylum seekers. It also explains the commitment Member States have to abiding by them - as all Member States are party to the Charter of the United Nations, they are obligated to “promote... universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion (Articles 55 and 56).”\textsuperscript{21} Defined as a humanitarian crisis, there exist, as briefly mentioned above, legal frameworks designed to protect the lives of the vulnerable, and manage the situation, so it does not become a “crisis.”

Through surveys that record public sentiments of Europeans in regard to related issues, Chapter II attributes the influence of populism to rising anti-refugee sentiments and related political decisions which fail to provide refugees with deserved rights. It then

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proceeds to address the theory of cultural relativism, a theory which states that people develop, understand, and judge beliefs, values, and practices based on the aspects of their own culture, and not the standards of other cultures.\textsuperscript{22} It is because of this that people feel comfortable sacrificing their moral obligation to protect the lives of other humans in exchange for exclusionary views.\textsuperscript{23} This is analyzed through case studies of the 2010 French ban on the covering of faces, which applies to helmets, masks, niqabs, and burqas, and the 2004 Ban of the Veil, which forbade religious symbols or articles in the classroom. As France is home to one of the largest Muslim communities in western Europe, these laws affected many, and were high points of contention.\textsuperscript{24} These precedents, which were ruled on directly before the start of the Arab Spring and subsequent influx of Middle Eastern migrants to Europe, also supported deep seated fear and racism towards the asylum seekers who arrived. The reasoning behind both bans was based on public sentiment, and opinions that the religious veils were degrading to women, that they promoted divisive cultural practices that were not part of French tradition, and that they prevented the ability to identify individuals, thus interfering with public safety.

To analyze why this migration of refugees has transformed into a matter of politics instead of capacity, Chapter III addresses the avenues that European countries

have engaged in to reappropriate the reality of the refugee crisis to their political gain.
This chapter presents the response of Member States to the influx of refugees into their countries. Based solely on the number of refugees involved, this situation was theoretically manageable, and the critical humanitarian crisis it has spiraled into was completely avoidable. The Member State’s propensity to disregard legal guidelines, UNHCR Emergency Handbook regulations, and other documents intended to assist in the management of the migration of refugees shows how the EU’s interests prioritize EU members’ citizens, instead of those seeking refuge and asylum. Avenues which have normalized and promoted the inhumane treatment of refugees are the use of exclusionary, xenophobic, and nationalist language used widely and unsparingly by politicians. Through dehumanizing language, politicians have created the harmful association of refugees with chaos and terrorism, which leads to public support for political decisions and actions which directly target and threaten the lives of these vulnerable persons. One way this is seen is through the Member States allocating an irrationally higher proportion of money towards preventing legal entry into their countries, while claiming they cannot afford to provide better conditions in the overcrowded and under-resourced refugee camps. The billions of euros that have been allocated towards preventing legal entry in the countries, increasing border patrol and coast guards, and anti-refugee propaganda, have been falsely presented under the pretense of saving the lives of those seeking asylum, when in fact, they have clearly increased the mortality rates of refugees by denying them access to safety.
Through a detailed analysis into the lives of those in refugee camps in Europe, Chapter IV presents the origins and severity of the crisis in the ad hoc refugee camps established in Europe. The Council of Europe's Committee for the Prevention of Torture (CPT) has released statements defining the abysmal living conditions in camps across Europe are both “inhumane and degrading.” Along with severe overcrowding there is limited access to food, bathrooms, shelter, and medical assistance. This has led to a chaotic and unsafe environment for refugees to survive in, especially when combined with the mental challenges, such as post-traumatic stress disorder, that many of them face after their dangerous journeys toward what they hoped would be safer and healthier futures. These conditions are avoidable, however, and this chapter will address literature which analyzes the theory that the camps are intentionally under-resourced; the publicized images of all the abysmal and unsanitary conditions in the camps are used to create propaganda that supports the message that the situation is unmanageable, to dehumanize the refugee population, and to dissuade other refugees from seeking asylum in these countries. It shows hopeful refugees who are on the dangerous journey of escaping the conflict within their home countries that they are not welcome, and they do not have a chance for a better, safer life within these borders. Through an analysis of the conditions within Moria Camp in Greece, Chapter IV examines challenges refugees face within camps and the severity of this situation as a critical humanitarian crisis, along with underlying reasons that this situation has been able to escalate to such extreme levels.

After nine years, it is clear that the European Member States will not collectively collaborate and cooperate to create harmonization and rework the system into a more equitable one which will evenly distribute the responsibility, and through doing so, ensure the protection of proper human rights to the refugees and asylum seekers. Chapter V calls for the initiation of a dialogue that addresses the shortcomings of the EU, and addresses how direct intervention and funding, perhaps from other countries, is necessary. It provides context for how this reallocation of funding would be in compliance with international human rights codes of conduct, ultimately, affirms the need for the return of a shared sense of humanity.

NOTE ON SOURCES:

This study is based on research acquired from a variety of sources: government reports, academic studies, policy briefs, newspaper coverage, mass media, social media, testimonies, and images that shaped public opinion and awareness. In my research, I discovered an abundance of data collected by Pew Research Center, Amnesty International, the European Union, Human Rights Watch, United Nations, and the European Commission, which was helpful in determining the influence of public opinions on policy, and on shedding light on issues that are either not widely, or accurately, publicized. Primary sources also served as an essential resource, given the current nature of the crisis. It is vital to recognize that, given the limited scope of this assignment, this analysis does not address the entirety of the burgeoning refugee crisis, which is anticipated to become further aggravated by the current COVID-19 pandemic.
CHAPTER I: Human Rights Instruments and Legal Frameworks

Currently, the number of persons globally displaced is the highest it has been since the Second World War and reasons for this crisis range from natural disasters, persecution, and conflict. Unlike the mid-twentieth century, there now exists a multitude of frameworks and institutions designed with the specific intention of preventing new conflicts from creating similar refugee crises. While Member States are not legally obligated to comply with many of the guidelines within current frameworks, they are still responsible for providing them. This chapter provides an analysis of the current legal structures in place to provide protection to refugees, in an effort to unpack the legal obligations Member States have in regard to this crisis.

The current refugee crisis is unlike any other because it exists within an international system of legal protections and rights that developed since World War II. The United Nations Relief and Rehabilitation Administration of 1943 (UNRRA) was the first structure founded to ensure that refugees in territories facing Allied liberation had access to rehabilitation aid.26 This international relief agency was supported by 44 countries, who signed on to provide funding enabling the UNRRA to establish approximately 800 resettlement camps, which provided refuge to seven million people.27 It ceased operations upon the creation of the International Refugee Organization (IRO) in

1947. The IRO in turn, upon the creation of the 1951 Convention Relating to the Status of Refugees, was replaced with the United Nations High Commissioner for Refugees (UNHCR), which still exists to this day. The human rights doctrines designed after WWII to protect refugees provide guidelines as to how to mitigate the aspects of the current refugee crisis, and collectively, they provide a multilayered framework which had the potential to prevent the influx of Syrian refugees to the European Union from spiraling into an unmanageable humanitarian crisis.

A close reading of the Member States' interpretation of policy, however, and their subsequent actions in regard to this crisis, infer that they are purposefully skewing the definition of 'crisis' for political gain and in order to both garner approval and from right-wing, anti-refugee, and anti-immigration populists.\(^{28}\) The migration to European countries is a result of Syrian natives fleeing direct threats to their lives created by conflict within Syria, in addition to facing religious, racial, and social persecution. The Syrian refugee “crisis” in Europe is occurring because there is a concentrated effort on behalf of Member States to change the definition of displacement to fit narratives more conducive to each countries’ individual preferences. These agendas often center around preserving or protecting perceived notions of the traditional ways of the existing European cultures, and a national patriotism that fundamentally excludes non-Europeans. Nationalist culture has increasingly tilted toward nonuniversal discourses on rights and

instead promotes xenophobic sentiments, which results in an unwillingness to allow “others” into their countries and societies.29

Legal protections that exist to provide protection to those outside their country’s borders fall into three categories, which define the status of the person under international law as either a refugee, asylum seeker, or migrant.30 While refugee, asylum seeker, and migrant are labels that are often used interchangeably, they are each significantly different. A refugee is “a person who has fled their own country because they are at risk of human rights violations and persecutions there. The risks to their safety and life were so great that they felt they had no choice but to leave and seek safety outside their country because their own government cannot or will not protect them from those dangers. Refugees have a right to international protection.”31 An asylum seeker is a person who has fled their country in search of protection in another country, and has filed an asylum claim. Asylum seekers have not been “legally recognized” as refugees, which means their filed asylum claim has not been approved.32 Seeking asylum is a human right.33 The word “migrant,” does not have an “internationally accepted legal definition,” but

30 Stateless persons, who are not considered citizens or nationals under the operation of the laws of any country, are also included in many of the legal frameworks addressed. This analysis does not specifically address the rights of stateless individuals, as this thesis aims to address the rights of Syrian refugees, who to date, remain citizens of Syria; “UN Conventions on Statelessness,” UNHCR (The United Nations High Commissioner for Refugees), https://www.unhcr.org/un-conventions-on-statelessness.html.
32 Amnesty, “Key Facts.”
Amnesty International “understands migrants to be people staying outside their country of origin, who are not asylum-seekers or refugees.”34 The distinctions among these three categories of personhood are essential to highlight, as they are often used as a technique to obfuscate who the persons are, and the legal obligations of the international community. In media and journalistic coverage, refugees are regularly referred to as migrants, which gives the audience the impression that the issues surrounding refugees and the Member States are avoidable.35

The globally recognized Universal Declaration of Human Rights states in Article 14 that “everyone has the right to seek and enjoy in other countries asylum from persecution.”36 For many refugees arriving in European countries along the Mediterranean Sea, this right has been intangible and difficult to secure. Violations of this right have been seen through overcrowded and under-resourced camps, labeled “inhumane and degrading” Council of Europe's Committee for the Prevention of Torture (CPT),37 or the illegal “push backs” as seen in Croatia, Bosnia and Herzegovina, Greece, Hungary, Slovenia and Serbia, where refugees and migrants are forcefully pushed back across a border, immediately after they have crossed, and not given any opportunity to apply for asylum. Human Right Watch reported, “People who have not committed a crime are detained, beaten, and thrown out of Greece without any consideration for their

34 Amnesty, “Key Facts.”
35 Further discussed in Chapter III.
rights or safety.”

Push-backs violate “the prohibition of collective expulsions,” which are stipulated in the European Convention on Human Rights. The European Union Agency for Fundamental Rights (FRA) outlines the laws that the EU and its Member States are bound to, such as:

1. The fundamental rights as listed and defined in the Charter of Fundamental Rights of the European Union;
2. The fundamental rights as guaranteed by the Council of Europe’s European Convention on Human Rights, to which the EU is now also bound to accede;
3. The general principles of law as developed by the Court of Justice of the European Union.

The FRA also stipulates that the EU and its Member States are obligated to “consider” international legal frameworks, such as United Nations treaties and conventions. The Charter of the United Nations and the EU’s “internal human rights” system offer guidance on how to handle the situation in accordance with universally recognized inalienable human rights. Member States are not required to adhere to all human rights treaties, but they are obligated to act in accordance with the EU Law, which recognizes a significantly smaller range of rights than those outlined in UN treaties. The current method of implementation is not entirely effective, as the dichotomy between national law and EU law creates the risk of human rights enforcement becoming a “two-tier system of protection,” which leaves room for gaps in implementation and ultimately, the

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40 EU Agency for Fundamental Rights, “EU and International Law.”
promise of human rights undelivered.\textsuperscript{41} The FRA aims to combat this issue through their clause which states, “If a state is party to an international human rights treaty then this country is bound to ensure respect for the provisions it contains. International legal instruments can offer the legal basis needed to put forward a fundamental rights initiative.”\textsuperscript{42}

Consistent activism and dedication on the part of human rights lawyers and advocates have led to the existence, revisions, and implementation of numerous charters and treaties intended to protect human rights. The charters and treaties discussed below influence the countries’ behavior towards the protection of them. EU Member states are party to the following international human rights treaties: International Covenant on Civil and Political Rights (ICCPR);\textsuperscript{43} the International Covenant on Economic, Social and Cultural Rights (ICESCR);\textsuperscript{44} the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);\textsuperscript{45} the UN Convention on the Rights of the Child (CRC);\textsuperscript{46} and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).\textsuperscript{47} “These instruments confer a range of

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\item[42] EU Agency for Fundamental Rights, “EU and International Law.”
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inalienable rights on all those within the jurisdiction of the Member States.”48 The International Covenant on Civil and Political Rights states that “each State Party...to ensure to all individuals within its territory and subject to its jurisdiction, the rights recognized in the present Covenant, without distinction of any kind.”49 Asylum seekers and refugees, regardless of whether their request for asylum has been accepted, fall under the category of “individuals within its territory.”50 The International Covenant on Economic, Social and Cultural Rights states they will uphold rights granted under the Covenant without discrimination. These rights include the right to education (Article 13), the right to food (Article 11), the right to health (Article 12), the right to housing (Article 11), the right to social security (Article 9), and the right to work and join unions (Articles 6-8).51 CEDAW offers a legal protection of women’s rights and addresses the public sphere of national constitutions and public institutions, the private sphere, which includes individuals, businesses, associations, and groups, and cultural discrimination, which refer to prejudices, stereotypes, customary practices, and beliefs.52

The 1951 Convention Relating to the Status of Refugees, also known as the Geneva Convention, was the first piece of legal standing that addressed rights of asylum seekers. This document focuses on non-refoulement, which is the practice of not forcing asylum seekers and refugees to return to countries where there is a possibility that they

49 United Nations, “No. 14668 Multilateral.”
50 Ibid.
52 United Nations, “CEDAW.”
will be subjected to persecution (Article 33). While refugees are supposed to be guaranteed most of the basic rights, they do not receive treatment equal to the citizens of the country in which they are seeking asylum. The country they seek refuge in also holds the right to take measures to ensure national security. Under this convention, refugees must receive free access to courts (Article 16), administrative assistance (Article 25), identity papers (Article 27), travel documents (Article 28), the ability to transfer assets. In accordance, refugees must cooperate with the UNHCR in the exercise of its functions and help the UNHCR supervise the implementation of the provisions in the Convention (Article 35).

The EU, which “actively promotes ratification of UN human rights treaties by third countries in its external relations” has not, however, “ratified or acceded to a UN human rights treaty,” other than the CRDP. This lack of ratification, which makes it a legally binding commitment, is problematic in several ways – most pressingly because it brings into question the universality of human rights, essentially inferring that they are not universally deserved or respected. If the EU does not prioritize consistency through how it honors the universality of human rights, it undermines the EU’s “credibility and ability to implement an effective external human rights policy.”

It is necessary to note that “the EU has accepted that it is under a duty to not actively violate rights (i.e. to ‘respect’ rights), but has not generally acknowledged that it

55 Ibid.
57 Ibid.
has an obligation or the authority to protect or promote them.”

However, as seen with the refugee camp conditions and illegal push backs, the EU and its Member States are in violation of both respecting and protecting certain deserved rights.

Ultimately, “under International Law the EU itself is bound by human rights obligations in so far as they are contained in Customary International Law and any treaties to which the EU is party, such as the Convention on the Protection of Human Rights and Fundamental Freedoms and the Convention on the Rights of Persons with Disabilities, which it ratified in 2010.” This is supported through arguments based in EU Law itself, that while Member States have not ratified UN Charter and human rights treaties directly, they are still obligated to abide by the standards there outlined. This is extended to Customary International Law, also referred to as jus cogens norms, which are rights that have been considered the “peremptory,” and are accepted as fundamental principles through which “no derogation is permitted.”

The Qualification Directive presents guidelines as to how to “harmonize the criteria by which Member States define who qualifies as a refugee, as well as other forms of protection for persons who face serious risks in their country of origin (subsidiary protection).” The document states first that all the Member States should rise to the highest standard of providing provisions to the refugees. This also applies to asylum seekers and refugees whose applications are not accepted – they are supposed to receive

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59 Ibid.
60 Ibid., 60.
subsidiary protection. It then states that refugee status should be honored until the conflict the person has escaped is thoroughly contained or eliminated. This means that Syrian refugees would be offered protection until the Syrian civil war ends. The third contention acknowledges the exclusion clause, and allows States to deny people refugee status if they have committed serious crimes. The directive says that serious crimes must align with international law more so than regional law, because it is objective how serious the crime might have been. The fourth, and perhaps most important statement, is that refugees must receive an equivalent level of rights, which acknowledges the length and instability of their journey. The fifth point is that people applying for asylum or refugee status must always be given the benefit of the doubt. This stems from some people taking advantage of the system, and seeking asylum simply to obtain the benefits that come along with asylum status. This is often associated with a lack of accurate papers and documents needed to submit, an issue also highly prevalent in the cases of refugees who apply. This final point dictates that, even if the application submission is late or lacking certain documents, all people must be given a chance to have their asylum application properly reviewed.  

In Europe, many refugees have faced barriers to accessing the aforementioned rights. Member States equate this to lack of resources, finances, willingness, and an overall inability to manage the influx of refugees. The 2005 EU Common European Asylum System (CEAS) aimed to create more effective legislative frameworks and

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standard guidelines for EU Member States to accept refugees. The CEAS has not been widely successful, and perhaps that is because the directives it supports are inherently unfair to certain Member States, as seen with the Dublin Regulation. On the CEAS homepage, it defines the revised Dublin Regulation as “a system to detect early problems in national asylum or reception systems, and address their root causes before they develop into fully fledged crisis” that “enhances the protection of asylum seekers during the process of establishing the State responsible for examining the application, and clarifies the rules governing the relations between states.” In more accurate terms however, the Dublin Regulation allows Member States to send refugees seeking asylum back to the country they first arrived in for their asylum claim to be processed. The countries through which most refugees enter the EU are those bordering the Mediterranean Coast such as Greece, Italy and Spain. This regulation was largely supported by northern EU states, who realized that it would allow them to save expenses, as most refugees enter through the south.

The newest version of the Dublin III Regulation came into practice in 2013. Since the beginning of the refugee crisis, the regulation has placed an unnecessarily heavy burden, financially, socially, and morally, on receiving Member States around the exterior European Union borders. The countries most impacted are Greece, Italy, and Spain, which respectively have received approximately 1,958,126 sea arrivals since 2014.

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64 Ibid.
As these countries are the first points of entry for these migrants, the task of identifying and providing registration falls directly onto these countries. The states benefiting from this regulation are very resolute about how they will not accept refugees who have not received background checks and been officially provided with refugee status, emphasizing that the Dublin Regulation is a legal document that must be followed and abided by. This is very hypocritical and the manner in which they disregard inconvenient mandates and embrace others makes it clear that this crisis is a result of unwillingness by certain states in the EU to provide standard assistance to those fleeing from an unsafe country. The registering and processing of migrants is a difficult yet manageable task for the southern countries, but the struggle to enforce it is exacerbated by the lack of support and financial aid from the rest of Europe. The European Parliament noted that, “in the absence of harmonization, the Dublin system will continue to be unfair both to asylum seekers and to certain Member States.”

As seen with these charters and governing bodies that aim to protect human rights across a wide range of opinions and beliefs, it is incredibly challenging to create a set of universally accepted and respected human rights. The hierarchy of institutions and the precedents they set are determined by specific case rulings, which rarely present arguments that are universally accepted. The question of who has the right to set

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66 Helen Crawley et al., Unravelling Europe's "Migration Crisis": Journeys over Land and Sea (Bristol, UK: Policy Press, 2018).
precedents that might infringe on promised rights is constantly asked, and answers have come in different forms – one of them being economic and social rights.

**Economic and Social Rights**

Economic and social rights (ESRs) were introduced to international and regional human rights instruments as a way to highlight human needs that are inherently interconnected – for example, the right to speak freely cannot be enjoyed without an education, similar to how the right to work is unattainable if one has no access to food or water to nourish their body. This section analyzes six specific ESRs: social security, housing, food, water, health care, and education. Those who are displaced from their homes and seek refuge in other countries would particularly benefit from these ESRs, especially with the high levels of employment, housing, and social discrimination they face in the countries to which they migrate. Unfortunately, ESRs are not universal human rights, though human rights NGOs and actors continuously fight for them to become so.68 ESRs are only granted to “established” refugees, which are those who have applied for asylum, and had their application reviewed and asylum granted. Making ESRs mandatory to compile with is one way to ensure the protection of human rights.

ESRs can be found in the Universal Declaration of Human Rights (UDHR), United Nations human rights treaties, and national constitutions – however, most of the treaties in which they exist are non-binding, and thus, these rights are not technically enforceable. Article 22 of the non-legally binding UDHR states, “Everyone, as a member

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of society, has the right to social security and is entitled to realization, through national effort and international cooperation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality." Refugees, asylum seekers, and migrants arriving in the EU, specifically those who have been detained in under resourced, overcrowded refugee camps, discussed in depth in chapter 4, have not been granted access to social security and education, or adequate housing, food, water, and health care.

Since there are variations in each country’s level of economic development and the international assistance it receives, ESRs have not been legally enforceable. However, housing, food, water, health care, and education, are such basic and necessary rights that it seems inconceivable that governments can choose not to provide them to refugees. The difficulty is in developing an universally-recognized framework for government action that imposes realistic, achievable and tangible obligations that can be overseen by courts if ESRs are subject to judicial review is due to the current rhetoric discussing the use of ESRs as compulsory has not yet been agreed upon holistically. ESRs are also realized progressively, so it would theoretically be impossible to determine whether a State is satisfying its legal obligations at any given moment in time. Violations of rights require remedies that are legally enforceable in court, but judges do not have the institutional capacity, political legitimacy, or expertise to award such remedies, which require

69 "Universal Declaration of Human Rights."
ordering governments to allocate limited resources in specific ways.\textsuperscript{71} Since governments are not obliged to give effect to these directive principles, they are most likely to ignore them or interpret them in a way that suits their motives, which is possible as these principles are subjective. This would lead to a lack of trust in the governments about these rights being protected, and risk that no effective remedy will be available to those whose ESRs are being violated.

The ICESCR provides guidance for incorporating ESRs into the signed-on Member States’ policies. Article 2 states that each state party is responsible “to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of [ESRs] by all appropriate means, including particularly the adoption of legislative measures, and to guarantee that [ESRs] will be exercised without discrimination of any kind....”\textsuperscript{72} There are four methods for assuring this – “progressive realization,” which is rights that are given effect in stages and over time, “maximum available resources,” which is a State’s financial constraints limit the realization of ESRs, “legislative measures” which is the primary means of realizing ESRs; no mention of judicial remedies, and “international assistance,” where wealthier nations provide financial and technical aid to poorer countries.\textsuperscript{73} As long as the state applies those four methods and uses the resources they have to accomplish those checkpoints, it will have flexibility in how the obligations are implemented into its

\textsuperscript{71} Young, 14.
\textsuperscript{72} United Nations, “Economic, Social and Cultural Rights.”
domestic law. If the Member States’ assertion that they are financially incapable of providing proper resources is true, they would not be in violation of their obligations. The shift of ESRs to actual law, in fact, would require wealthier nations to provide them with the financial and technical aid to make offering adequate assistance to refugees feasible.
CHAPTER II: Cultural Relativism and Human Rights Debates in Europe

Thus, as Chapter I outlined, there is an international legal framework for response, starting with the fundamental definition of refugees, asylum seekers, and migrants, and the various conventions that members of the United Nations adopted to deal with crises such as the current one. The introduction, through providing a timeline which suggests that the European Member States might have anticipated and prepared for the influx of refugees from the ongoing Syrian civil war, raises the question of why European leaders have faltered in responding uniformly and providing legally outlined forms of protection. International relations theory states that it is expected for EU Member States to comply with the standards set by the legal documents presented in Chapter I, as to remain favorable in the eyes of their allies and other nations. This incentive to comply is negated, however, when public opinion contradicts it. Why have they worked around their commitments of upholding basic human rights for refugees? A large factor is public opinion and the influence it has over the political agendas. Through an analysis of a survey which records public sentiments of Europeans in regard to related issues, Chapter II first presents a data analysis which attributes the influence of populism to rising anti-refugee sentiments and related political decisions which fail to provide refugees with deserved rights.

Public Opinion Poll Analysis

A 2018 Pew Research Center survey set out to gain insight in the opinions of the public across 10 European nations – Greece, France, Italy, Netherlands, Hungary, UK,
Spain, Sweden, Germany, and Poland.\textsuperscript{74} In many cases, the results presented align with the political approach each country has taken in regard to the refugee crisis.\textsuperscript{75} The European Commission against Racism and Intolerance (ECRI) released a statement following the publishing of this poll regarding the 2019 election campaigns, stating, “[They] showed that ultra-nationalistic, xenophobic, racist and homo/transphobic speech was once again on the rise, and increasingly permeated and even set the tone in social media networks. Insulting and degrading remarks online, which would have been deemed unacceptable in the past, are becoming a new norm; hate speech challenging the overall principle of human dignity spills over into non-digital, day-to-day life.”\textsuperscript{76} Along with supporting graphs, this analysis displays the statistical evidence that visually explains public opinion toward immigrants in their countries.

The survey result graphs do not display responses that stated, “Don’t know,” or “Neither/Both,” and accordingly, the percentages do not sum up to 100 percent.\textsuperscript{77}


\textsuperscript{75} The analysis will exclude Greece in this statement despite the fact the responses report that Greeks are less inclined to support refugees – due to their geographic location, they have received the highest number of refugees, and because of the Dublin Regulation (discussed in Chapter I), they have been left with the enormous responsibility of having to keep refugees within their borders until they have been properly registered and processed, without which they cannot legally migrate to other Member States.


\textsuperscript{77} Wike, “Pew Research Center's Global Attitudes Project.”
Additionally, it is important to note the rhetoric of each question, and whether it is asking about “migrants,” “immigrants,” or “refugees.”

When addressing the influx of refugees and migrants to Europe, Hungarian Prime Minister Orban stated, ““Autochthonous Europeans” [will] become a minority and “terror will become part of life in large cities.””78 Through his language, Orban has fabricated an unfounded fear and negativity around the presence of refugees. The graph to the left presents responses to the statement: “Immigrants in our country today are more to blame for crime than other groups OR immigrants in our country today are no more to blame for crime than other groups.”

An overall median of 45 percent believe that immigrants are no more to blame for crime, while a median of 38 percent states that immigrants are more to blame.79 The responses from Hungary are similar to the collective average, with 45 percent saying they are no more to blame, 33 percent of Hungarians saying they are more to blame, and 22 percent abstaining from deciding.80

The responses to the statement “Immigrants today increase the risk of terrorism in our country OR immigrants today do not increase the risk of terrorism in our country,”

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79 Wike, “Pew Research Center's Global Attitudes Project.”
80 Ibid.
however, show Hungarians believing immigrants do increase the risk of terrorism, if not crime. This is where the concept of the influence of rhetoric is relevant - migrants have been verbally mentioned alongside the word terrorism more than the word crime. An example is when Orban described migration as “a Trojan horse of terrorism,” and insinuated that within the masses, there are concealed ISIS fighters, dangerous criminals, and terrorist organization recruiters, pretending to be asylum seekers as they plan terrorist attacks. This is further analyzed in Chapter III.

When the citizens were asked specifically whether they felt “Immigrants in our country today want to adopt our way of customs and way of life OR immigrants today want to be distinct from our society,” a median of 51 percent selected distinct, and 38 percent selected adopt. Unsurprisingly, only 10 percent of Hungarians stated that they believe immigrants want to adopt their country’s customs, while 66 percent stated they believed that immigrants want to be distinct from their society. The responses from Italy, Poland, and Greece match these views. Europe has a deep history, and many Europeans

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83 Wike, “Pew Research Center's Global Attitudes Project.”
feel that an influx of so many people from other cultures will weaken or tarnish the existing traditions and customs of their country. Greece, Poland, Italy, and Hungary are all countries who are politically vocal about this, further discussed through Hungary’s government-funded National Consultation on Migration and Terrorism anti-immigrant campaign presented in Chapter III. Politicians center their dialogue around the comforts of the existing European culture that currently exists in these states, and how the influx of these one million refugees, who are only 0.2 percent of the entire European population, will challenge and corrupt the existing morals, values, and traditions.\textsuperscript{84} The rhetoric used often challenges the personal character of the people seeking refugee status, which plays into the public's distrust of refugees.\textsuperscript{85}

There are low approval ratings for how the EU is dealing with the refugee issue amidst many other criticisms of the EU as a governing power beyond its perceived economic benefits.\textsuperscript{86} The views are widely attributed to support for right-wing populist

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\textsuperscript{84} Kaushal, 139.

\textsuperscript{85} Further discussed in Chapter III.

\textsuperscript{86} The study attributes Brexit, the economic challenges that Europe has recently faced and in recent years, and the financial anxiety to these low ratings. It states: “A remarkable number of Europeans believe the financial situation for average people in their country has not improved over the past two decades. In Greece, Italy and Spain – three southern European nations hit hard by the financial crisis – large majorities say average people are worse off than they were 20 years
parties. Pew Research cites “Germans who favor AfD, French who favor National Rally, Dutch who favor the Party for Freedom, Italians who favor the League, and Swedes who favor the Sweden Democrats” as the most prominent parties who oppose how the EU has handled the refugee crisis. Their concerns do not lie within the manner in which the EU has failed to provide the protection of human rights for refugees, but rather, that the EU has not made more active and blatant efforts to prevent refugees from seeking asylum within European borders.

**Cultural Relativism**

As briefly mentioned in the analysis of the public opinion survey, a large reason as to why Europeans have these anti-refugee and anti-immigrant views is because they feel that the presence of other cultures and religions (in this case, Muslim Syrian refugees) threatens their pre-existing European culture. The European Commission against Racism and Intolerance (ECRI) stated in February 2020, “Xenophobic nationalism frequently continues to portray Islam as a religion alien to the national culture and identity of many Member States.” This is a result of cultural relativism, a theory which states that people develop, understand, and judge beliefs, values, and

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87 Wike, “Pew Research Center's Global Attitudes Project.”
88 ECRI, “Ultra-Nationalism, Antisemitism, Anti-Muslim Hatred.”
89 The report also stated, “Anti-Muslim rhetoric makes Muslims wearing signs of their religion far more vulnerable, while multiple discrimination worsens the situation further, notably for Muslim women.” This matter is discussed in the case studies on the 2010 French Ban on the covering of faces, which applies to helmets, masks, niqabs, and burqas, and the 2004 Ban of the Veil, which forbade religious symbols or articles in the classroom, further in the chapter.; ECRI, “Ultra-Nationalism, Antisemitism, Anti-Muslim Hatred.”
practices based on the aspects of their own culture, and not the standards of other cultures. The word culture is intrinsically composed of the word “cultivating,” which relativists use to support their argument that cultural relativism on an individual level is based on the aspects of their society and social system that they live by consciously or subconsciously. This serves to explain why people sometimes feel comfortable sacrificing their moral obligation to protect the lives of other humans in exchange for exclusionary views. Regardless of these explanations, however, the question remains of how acceptable it is to use cultural relativism to override moral obligations we have as humans.

Endless disparities exist between human rights that are deserved and necessary and those that are highlighted and enforced, as outlined in Chapter I. This is reinforced by populism and vocal public opinions which advocate for policies that do not prioritize or provide human rights. Those with the opportunity to study human rights and the power to influence policy are not always able to notice the aspects and rights that are not covered, as they often come from a place of privilege that obscures the reality. Anthropologist Franz Boa adds to this with his theory that it is “quintessentially linguistic,” and that the varying meanings of words between different cultures are attributed to accumulated

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cultural knowledge, which is unique to each individual. The progress in this field over the last decades has been drastic, but constantly evolving social norms and cultures require that they continue to be developed. This fundamentally means that people must put aside their backgrounds, cultures, socio-economic statuses, beliefs, morals, and objectively analyze what human rights are being violated, and which ones are not enforced or protected when they should be. Essentially, it is near to impossible to create a standard of universal human rights that are respected and enforced globally. Deciding what the most important human rights are, who should decide which ones are enforced, and what funds and resources are allocated towards the chosen rights is very difficult. It is not enough for human rights instruments and bodies to simply say what they believe are human rights, and expect them to be provided and protected globally. It is vital to acknowledge this, so that we can properly analyze the reason for this, and steps we can take to alleviate the damage done by it. The discussion of human rights instruments, economic and social rights, examples of cases, and recommendations creates ideas in regard to steps that can be taken to spur global progress in this area, and this analysis will explore the concept of cultural relativism in the several contexts where it has influence, and how it affects the basis of universal human rights. It does not seem logical that majority opinions, even ones manifested in culture, should be able to control which rights are protected, and yet historically and politically, cultural relativism has had significant

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influence in these issues. This section aims to answer the question of to what degree relativism can be allowed to serve as an acceptable barrier to people receiving rights that are not considered fundamental to other cultures.

In “What are Human Rights? Six Historical Controversies,” political theorist Micheline Ishay highlights what she calls “antagonism between liberal (first generation) and developing world (or third generation) rights discourses” as a dichotomy between individual civil and political rights, associated with Western values, and the cultural traditions that most often are used to define welfare rights for those in developing nations. Cultural relativism is a constantly debated topic because customs that are practiced in some cultures might be perceived as discriminatory to other cultures, but there is a valid hesitation to label a cultural aspect as wrong.

Despite that, however, there are certain rights that humans inherently know they need and deserve. Historian Lynn Hunt explains how humans often officially recognize these rights through experiencing distress when they are violated. In her book, Inventing Human Rights: A History, Hunt presents the paradox of “self-evident,” a phrase that has shaped the rhetoric of rights that each person should have, as presented in the Declaration of Independence (1776) and French Declaration of the Rights of Man and Citizen (1789), two documents which heavily influenced the idea of human rights. The United

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Nations Declaration of 1948 presents similar rhetoric: “WHEREAS recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world.” Hunt asserts that the use of the word “whereas” means “it being the fact that,” which is just the legal way of phrasing “self-evident.”

Her argument, which is centered around how human rights have been explained, documented, and protected as being self-evident, is simple: if these rights are inherent, why were they so specifically documented, and why are they not universally recognized? In regard to the Syrian refugee crisis specifically, it begs the question of how people can know what inhumane conditions refugees are facing in the camps and what brutal resistance they are facing in their journey to find protection, and yet, still advocate for exclusionary political actions that not only perpetuate the existing crisis, but exacerbate it further.

Universal human rights that are supposedly regarded as indisputable are the right to life, liberty, personal security, freedom from slavery, freedom from torture and degrading treatment, freedom from discrimination, and right to equality. Realistically, these rights are globally violated in countless contexts, and the perpetrators are more often than not, not persecuted for their actions. This mirrors history – it was not until the late eighteenth century that torture and corporal punishment came to be seen as violations to bodily autonomy. Prior to that, acts of public torture and humiliation were widely accepted. The British Bill of Rights of 1689 technically prohibited cruel punishment, but

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100 Hunt, Inventing Human Rights, 19.
101 Ibid., 30.
Hunt highlights how what constituted “cruel” was based entirely on cultural expectations – being sentenced to the whipping post, branding, burning at the stake, and execution by drawing and quartering, which is dismemberment by horses, were all considered acceptable punishments.\textsuperscript{102} Similarly, in modern day, there seems to be a dichotomy between what is considered cruel depending on what persons are involved – refugees, asylum seekers, and migrants are too often treated as if their lives are worth less than others, and this is clear through the political decisions which result in the deaths of far more refugees than necessary.

It has been analyzed in several contexts that the “majority faction is the particular danger of popular government precisely because under popular government majorities can tyrannize under the cover of law.”\textsuperscript{103} Acts of violence or oppression that have been attributed to tradition cannot be allowed simply because they have been done in the past. Societies are often pushed towards new ideologies and mindsets through time, and this is what must be done.\textsuperscript{104} Cultural relativism also fosters “minoritism,” and prevents all groups except the majority from having access to rights that are universally common practice. It perpetuates cycles that people get trapped in – without being accepted into society, they often have lower quality of life, job security, opportunities, and self-esteem. These only escalate as time goes on, and end up leaving a long-term negative impact on their lives and ability to engage in society. For refugees, this is an imminent reality in a more drastic manner – many of them are not granted work permits without a permanent

\textsuperscript{102} Hunt, \textit{Inventing Human Rights}, 77.
\textsuperscript{103} Herbert J. Storing, \textit{What the Anti-Federalists Were For} (Chicago, IL: Univ. of Chicago Press, 1991), 39.
address, and will not leave the camps they are trapped in for years to come. Even if they were granted refugee status and had the means to leave the camp, there is no feasible way for them to have acquired money to find an even semi-permanent residence. Furthermore, when refugees are able to, they often face blatant discrimination — many Europeans refuse to rent their properties to migrants or refugees. Rules must be put into place to ensure the prevention of acts which violate the human rights code.

In addition to overlooking human rights, cultural relativism appears to provide justification for the explicit disregard for those rights altogether. Cultural relativism often epitomizes itself in one of the two extreme forms: radical cultural relativism or radical universalism. Radical cultural relativism states that morals and their validity are determined only by culture. Radical universalism argues the opposite, saying that culture is essentially uninfluential to morals and their rules. The question now is, to what degree can relativism be allowed to serve as an acceptable barrier to people receiving rights that are considered fundamental to other cultures?

**Current State of the Field**

As discussed in Chapter I, the protection and enforcement of international human rights is currently overseen by multiple core instruments and monitoring bodies, which allows for various interpretations of what rights should be granted and protected, and also

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creates difficulties in enforcing them. Many scholars argue that the vast number of human rights that are attempted to be applied internationally take away from the enforcement, especially since it allows focus on rights that are not necessarily feasible globally, based on societal and cultural restrictions. An example of this would be the freedom of expression. While it is a right that everyone should be entitled to, people living in extreme conditions, without access to clean water, food, and other basic resources needed to survive, or living under oppressive rule, will not be as concerned with the right to free speech as the right to freedom from oppression. Placing the focus on rights that protect religious and cultural decisions inevitably redirects resources and attention from other rights violations that might be considered more oppressive, which sometimes leads to those who cannot enjoy said rights disagreeing with them being referred to as human rights. The multiple institutions and actors also make it more difficult to design a ranking of which decisions should take precedence over national law. Cases presented before these instruments, such as those requesting a ban of burqa and hijabs, often result in rulings that seem to violate fundamental rights, or favor certain cultures at the expense of minority groups.107 Minority groups, especially those associated with certain races, religions, or backgrounds, have been persecuted and oppressed throughout history, and these rulings only serve to perpetuate that. These rulings also validate and further enforce social stigmas and fears of these religious practices and the people who practice them, as seen with the response of Europeans towards migrants from the Middle East. It is because

107 John Tilley, Cultural Relativism, 8.
of this that this section argues that the wide range of power and influence that cultural relativism has over human rights is unacceptable, and must be limited.

Certain decisions have been made that clearly displace the conflicts of culture and nationality and how that can affect people differently. Examples of this are the 2004 Ban of the Veil, which forbade religious symbols or articles in the classroom, and the 2010 French ban on the covering of faces, which applies to helmets, masks, niqabs, and burqas. As France is home to one of the largest Muslim communities in western Europe, these laws affected many, and were high points of contention.108 These precedents, which were ruled on directly before the start of the Arab Spring and subsequent influx of Middle Eastern migrants to Europe, also supported deep seated fear and racism towards the asylum seekers who arrived. The reasoning behind both bans was based on public sentiment, and opinions that the religious veils were degrading to women, that they affected France’s culture and tradition, that it prevented the ability to identify individuals, thus interfering with public safety, and that it interfered with French society’s ability to exist cohesively. After addressing economic and social rights, this paper will provide case studies of both the burqa and veil bans, and the long-term implications of the rulings. These cases are relevant to the refugee situation happening in Europe currently – fear deeply instilled since 2004 has simply increased.

2004 French Ban of the Veil

This analysis of the 2004 French ban of the veil is explored through Joan Scott’s *Politics of the Veil*, a book that aims to lay out a roadmap towards achieving social harmony through the acceptance, and not suppression, of diversity. During 2004, a secular law was passed in France banning “the wearing of signs or clothings which conspicuously manifest students’ religious affiliations is prohibited…such as a large cross, a veil, or a skullcap.” Scott first approaches the idea of sameness and how, when advocating for rights, people often strive for *equality*, when they should be striving for *equity*. Equality means that we must have everything equate, which in theory means we must take away parts of each side until they are on the same level. Equity infers that all sides would be valued the same, and would be able to keep every single characteristic that makes them unique. Once again, the foundation of what actions are based on is abstract, and when strong cases are built to support views upheld by weak foundations, it leads to chaos. “Those who supported the ban conceived of it as a valiant action by the modern French state to rescue girls [who donned head scarves…as a personal choice] from the obscurity and oppression of traditional communities, thus opening their lives to knowledge and freedom, even if it meant expelling them from school.”

This law, while it appears to address all religions, specifically targeted Jews and Muslims. In addition to the reasons stated above, the book speaks about how members of

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society claimed that headscarves could be used to represent and support terrorism, and also that the veils were distractions in the classrooms. Labeled “le affair du string,” they made a comparison between young girls wearing headscarves to show their devotion to their religion to girls wearing low rise pants where their thongs were clearly visible. Instead of letting the headscarves represent devotion to a religion, they changed the identity of them to something sexual.

The aggression of the woman consisted in denying (French) men the pleasure-understood as a natural right (a male prerogative)-to see behind the veil. Depriving men of an object of desire undermined the sense of their own masculinity. Sexual identity (in the Western or “open” model) works both ways: men confirm their sexuality by not only being able to look at-to openly desire-women but also by receiving a “look” from women in return. The exchange of desirous looks, the availability of faces for reading, is a crucial aspect of gender dynamics in “open” systems.

The term “sexual identity” refers to a stereotype that has been forcefully placed on and applied to every person. The women wearing veils are attempting to prevent being sexualized. The girls protest that “the headscarf is part of [themselves]...that is, there is no separation between self and religious embodiment.” They also speak about how it is a sign of respect for their bodies and selves, and not meant in the slightest to bring attention to their bodies. Many refuted these testimonies by saying the girls were either “delusional (overcome by irrational sentiments), dishonest (acting as agents of political Islam), or, most likely, forced by (male) family members into acts they would otherwise refuse. From this perspective, wearing the veil did not represent a choice that could be

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113 Ibid., 159.
114 Ibid., 125.
respected as such.”115 Through their actions, France illustrates a perception that “Islam is incompatible either with any other religion or with secularism.”116 This statement provides a clear depiction how cultural relativism can suppress human rights.

2010 French Burqa Ban

A similar case against this law was brought to the European Court of Human Rights in 2010, right before the start of the Arab Spring, by a French Muslim woman who asserted that it violated respect to her private life, her right to freedom of thought, conscience, and religion, and protection against discrimination. The French government’s defense was centered around the claim that this visible sign of another upset French society, and affected the way the society collectively “lives together.”117 They claimed that since French natives were scared of the women and girls wearing headscarves, it prevented them from speaking to them, and further isolated the Muslim women, creating further integration issues. The European Court ruled in favor of the ban, despite the fact that many thought France’s defense was a weak one.118 The Court justified it by saying they were granting France a wide margin of appreciation, and that they had no right to decide how the wearing of a headscarf impacted French culture and society, especially not over the French government’s claims.119 If they used their power to make a decision specific to a country, it would set a dangerous precedent, which they were not willing to

116 Ibid., 124.
118 Joppke, 4.
119 Ibid., 5.
do. Those affected by the ban felt as if they had lost part of their inherent human rights to express themselves and their beliefs with this ruling. This case dealt with the concept of relativism, because the Court had to make a choice to side with either the French government, or the young woman claiming her rights were being blatantly violated. By choosing to uphold the French government’s actions, it was clear that they did not prioritize the protection of human rights, but instead the integrity and reputation of the Court system.

**Options to Overcoming Relativism and its Influence on Society**

The complex obstacle to combating cultural relativism which negatively affects human rights is that a society cannot exist without “right” and “wrong,” and each society will always have their own strong options of what those boundaries are. Tolerance, the act of accepting the existence of behaviors or opinions one does not agree with, is often offered as a way to progress past it, but in the end, the concept is contradictory. Practices that are considered inhumane and unacceptable are also normally integral and deep-set parts of tradition and history of cultures, and so it is difficult to convince those engaging in these practices to stop. Another significant aspect is that a driving force behind these actions is fear. In the cases discussed above, the French government consistently made statements that equated women who covered their faces to terrorist security threats. They claimed that their society would not be cohesive or safe if the minimal percentage of

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120 Donnelly, 11.
women wearing full face hijabs were allowed to do so in public. People who have never met a woman wearing a hijab are not able to understand the fact that she might be just like them – instead they are highly influenced by negative sentiments towards them, and therefore make a decision to see them as dangerous as well. Studies have been done that show that one of the most effective ways to change the minds of people who fear others who are not like them or who are portrayed negatively in the media, often immigrants, refugees, or Muslims, is through a simple conversation. Identifying humanistic similarities among varying cultures is a first step to bridging the dichotomy created by social stigmas and fear. In an article published by the United Nations High Commissioner for Refugees (UNHCR), the Cyprus Representative stated, “When people get to know refugees they tend to have positive disposition and empathy towards this population. It is the personal story of suffering but also of courage, strength and resilience, that enables hosting communities to feel empathy and understanding.”

A more formal way of combating cultural and moral relativism from influencing societies, political decisions, and legal matters, is through educating societies about the true reality of situations. Political manipulation of the situations actively works against this – in her speech, UNHCR Cyprus Representative stated:

Distorted political narratives have led a growing number of people to believe that refugees and migrants are a threat and that they are to blame for a number of social issues. Global statistics tell us that 9 out of 10 refugees globally are hosted in poor and middle-income countries, not in Europe. Yet, European countries including Cyprus feel overburdened with the current refugee flows, Such worrisome trends of labelling refugees as a threat, have recently been intensified also in the political and public debate in Cyprus. Statements made by politicians

or the press, presenting Cyprus as being swamped by refugees; refugees branded as possible terrorists or as a cause for demographic changes on the island are not conducive to a welcoming environment, which is a prerequisite for a smooth integration of refugees.\textsuperscript{123}

The legal enforcement of economic and social rights, discussed in Chapter II, would also be an influential step in progressing towards incorporating these ideas in society, but for the reasons discussed previously, the very concept of cultural relativism prevents legal standing from being respected.

It is clear that cultural relativism has greatly influenced European public opinion, which has in turn, influenced political and legal decisions made in regard to how Member States have addressed the refugee crisis. In most cases, cultural relativism has been used to justify violations of human rights, either explicitly, through the shifting of guilt onto a party other than that of those who are tasked with protecting them, or implicitly, through the neglect of them. Especially since the matters addressed are high profile, it seems as if relativism is used with too wide a margin of appreciation in regard to the legal protection and enforcement of rights. The European Court of Human Rights’ aim was to create precedents that protected the integrity and power of the individual states, but in doing so, they indirectly enabled societies to target, discriminate, and oppress people who do not fit the majority group’s standard, regardless of how many human rights are violated in through those actions. These collective efforts to preserve a certain tradition and social culture displayed how willing countries are to engage in human rights violations in order to complete their hidden agendas of promulgating discrimination against refugees in the

\textsuperscript{123} UNHCR Cyprus, “Cypriots’ Perceptions.”
country, and how they have been able to magnify the migration of Middle Eastern refugees to Europe into a “crisis.”
CHAPTER III: Populism, Xenophobia and Responses to Refugees in Europe

This chapter presents the response of Member States to the influx of refugees into their countries. Based solely on the number of refugees involved, this situation was theoretically manageable, and the critical humanitarian crisis it has spiraled into was completely avoidable. The Member State’s propensity to disregard legal guidelines, UNHCR Emergency Handbook regulations, and other documents intended to assist in the management of the migration of refugees shows how the EU’s interests are focused on agendas that prioritize existing citizens, instead of those seeking refuge and asylum. Avenues which have normalized and promoted the inhumane treatment of refugees are the use of exclusionary, xenophobic, and nationalist language used widely and unsparingly by politicians. Through dehumanizing language, politicians have created the harmful association of refugees with chaos and terrorism, which leads to public support for political decisions and actions which directly target and threaten the lives of these vulnerable persons. One way this is seen is through the Member States allocating an irrationally higher proportion of money towards preventing legal entry into their countries, while claiming they cannot afford to provide better conditions in the overcrowded and under-resourced refugee camps. The billions of euros that have been allocated towards anti-immigrant propaganda, preventing legal entry in the countries, and increasing border patrol and coast guards, have been presented under the pretense of protecting their people from falsely labeled “dangerous” migrants and refugees, and also saving the lives of those seeking asylum, when in fact, they have clearly increased the
mortality rates of refugees. The first section of this chapter is a visual analysis which presents the actions of certain Member States, and their consequences.

Petra László became a symbol of hostility to migrants after she was filmed kicking people near the Hungary-Serbia border in 2015. Credit...Marko Djurica/Reuters

The photograph above was taken at the Hungary-Serbia border in September 2015 by Marko Djurica, a Serbian photographer employed by Reuters, an international news organization.124 The image portrays Petra László, a reporter for the right-wing Hungarian TV Channel N1TV, kicking – and ultimately tripping – a refugee man who is carrying his son. The father, later identified as Osama Abdul Mohsen, is pictured falling on top of his seven-year-old son, Zaid. This analysis will address the aesthetic qualities and focal

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points of the image and then the political events that led up to this situation, before addressing the ethical immorality of what this image portrays and the way this situation was eventually handled.

**Context of the Image**

In the southern Hungarian city of Szeged, over four-hundred refugees waited for days to board the buses headed for Germany and Austria. One bus arrived and departed with a small percent of those waiting, but when no other buses arrived in the following days, it became clear that no additional transportation would be arriving. Realizing they were stuck in limbo, with no way out of the unlivable and unsustainable conditions they faced in the temporary camp set up in Szeged, many migrants panicked, and began to run through the police lines, with blind hope of finding better conditions. Mohsen, the refugee who was tripped by the reporter, stated, “The indifference of the Hungarian authorities triggered the situation, causing the migrants to storm the police defenses and walk their way to the nearby village, three to five kilometers away.”

László had been assigned by Nemzeti TV (N1TV) to document the wave of migrants passing through the border. Instead of photographing the event as it unfolded, she was filmed kicking and tripping several refugees, both adults and children. N1TV fired her soon after the videos went viral, and a year after, Hungarian prosecutors brought

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charges against László for “antisocial, violent behavior capable of inciting indignation or alarm,” which under Hungarian law, can result in a maximum sentence of two years of incarceration.\textsuperscript{126} In January 2017, László was sentenced by the Szeged District Court to three years of probation. In October 2018, however, the Hungarian Highest Court, also known as the Kuria, overturned this ruling, clearing her of all charges. They stated that her actions were, if anything, a misdemeanor, and that “while morally incorrect and illicit, was a disruption, not vandalism.”\textsuperscript{127} The statement issued by the court also stated that, had there been disorder that had incited these events, the asylum seekers who ran past the police line were the ones to blame. “It was not the conduct of the accused that disturbed peace in the community, but the charge of several hundred immigrants, resisting police intervention,” the court said.\textsuperscript{128} Publically exonerating László for her actions, along with reassigning the fault to the asylum seekers, is a representation of the danger and consequences that these photographs hold. The “evil twin” theory, presented by human rights historian Lynn Hunt, explains barriers to the progression of empathetic understanding that can be created by degrading the experience of bodily violations and can even sensationalized violence against the protection of human rights.\textsuperscript{129} Condoning László’s actions led the way for the racism and anti-refugee sentiments that are highly prevalent in Hungarian society to develop. This image, and the discussion following it,

\textsuperscript{128} Karasz, 1. 
serve to address the greater themes that surround this refugee crisis, along with the moral obligations that arise with being a spectator of human rights violations.

Mass media coverage has been an integral part of fostering differing views, and fueling them. Images in circulation such as the one above are intended to spark a reaction from the audience, as are most which are widely circulated. This technique is sometimes used to garner more attention, and other times, also used to transform the audience from passive voyeurs to active responders and agents of change. The concept of the audience of such imagery being passive voyeurs was addressed by Sharon Sliwinski in her book, *Human Rights in Camera*.130 It first addresses this history – she refers back to 18th century France when imagery was first introduced through aesthetic venues such as public exhibitions, testimonies, and visual art. Sliwinski claims that these images were designed to draw an empathetic response from viewers, and force them to recognize the ethical obligation they had after seeing the images which would be to do something about it.

When first viewing the image, the material object that stands out is the grocery bag the man is holding, which presumably contains the few pieces of clothing and basic necessities that he and his son had been living off. The only word visible in the angle of this photograph says “schön,” which means beautiful in German, a word incredibly juxtaposed to the content of the image. This photo draws on the emotional and ethical aspects Sliwinski highlights through the concept of an internal organ, which guides the

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mind to the inherent understanding that certain things are inhumane.\textsuperscript{131} This derives from the mind processing the image as a “particular kind of crisis.”\textsuperscript{132} The viewer's eye is drawn first to the word “schön,” framed with cheerful pink and green colors, and then, belatedly, to the yellow shirt of the young boy who has been thrown to the ground, and, as captured in the frame, has not yet been able to gain purchase on the ground. There is an element of anxiety drawn from seeing the man about to fall on the child, and our minds naturally exhibit concern and fear for the sheer weight and force of an adult body we know inevitably landed on the small child. Our minds then backtrack to try to conceptualize why he is falling so suddenly and headfirst, and it is then that we see the camera woman extending her body back and leg out, in order to trip the man. The amount of energy and control she put into her balancing body in order to reach him suggests that, first off, he was not near her, and that this was an intentional and methodically planned action. László defended her actions by stating that, “I was scared as the crowd rushed towards me.”\textsuperscript{133} The fact that there are no other refugees in the background contradicts her inference that she was being stampeded by a wave of migrants running towards her, and that this was an act of self-defense.

The actions of László show the consequences of xenophobic beliefs that are given the space to grow and manifest. Her statement defense explains that her emotions – fear of the immigrants – controlled her physical actions. Similar reasoning has been used by

\textsuperscript{131} Sliwinski, Human Rights in Camera, 24.
\textsuperscript{132} Ibid., 23.
others in Hungary to explain their inhumane treatment of refugees. This can be attributed to the anti-migrant and anti-refugee sentiments publicly shared and endorsed by the Hungarian government. Hungarian prime minister Viktor Orban described the migration as “a Trojan horse of terrorism,” and insinuated that within the masses, there are concealed ISIS fighters, dangerous criminals, and terrorist organization recruiters, pretending to be asylum seekers as they plan terrorist attacks.\footnote{Kaushal, “Blaming Immigrants,” 139.}

Orban paired his words with actions through campaigns led by the government-funded National Consultation on Migration and Terrorism, a committee intentionally labeled to place the words “migration,” and “terrorism” under the same category. Their name was painted on their campaign billboards they printed across Hungary. One variation of the billboards were blue, with bold white Hungarian lettering which stated "If you come to Hungary, don't take the jobs of Hungarians!" The racism and xenophobia could not be more clear through the fact that the letters were in Hungarian, a language that the refugees entering the country could not read. These billboards were intended to create a fear of the refugees, and hatred towards them for "taking the jobs of Hungarians."
The English translation of this Hungarian billboard states: "If you come to Hungary, don't take the jobs of Hungarians!" June 2015

Another poster they printed across large walls within the country were images of migrants walking, with a bold STOP sign pasted across it, pictured below.

An anti-immigration billboard on a street in Budapest in April 2018.

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136 Jennifer Rankin, “Hungary Accused of Fuelling Xenophobia with Anti-Migrant Rhetoric,” The Guardian, May 21, 2019,
In order to circumvent backlash for not complying with the legal obligation to provide those who arrive at their borders the opportunity to apply for asylum, governments are using the technique of framing refugees in a negative light in order to turn public sentiment against the asylum seekers and towards exclusionary political decisions.\(^{137}\) The propaganda, such as the images above, which frames migrants as threats, have promulgated this belief. The consequences of that are seen through László assaulting the migrants – she stated that the families were charging towards her and she feared for her life, so she felt the need to trip them as they ran by her to prevent them from hurting her first.\(^{138}\) This propaganda fosters a fear so deep and prevalent in the minds of those consistently exposed to them that acts of violence against innocent humans become justified - a dangerous and slippery slope that has the potential to lead to a system of human rights abuses.

**Manageable Numbers**

This section presents statistics on refugees who have arrived in Europe. The numbers show that the critical humanitarian crisis that now exists was avoidable. Filippo Grandi, United Nations High Commissioner for Refugees (UNHCR) called for a “return to dignity, human rights and a sense of shared humanity,” stating that “the language of politics has become ruthless, giving license to discrimination, racism and xenophobia.”\(^{139}\)

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\(^{138}\) Mackey, 1.

\(^{139}\) United Nations, “Refugees, Migrants Branded 'Threats', Dehumanized in Campaigns Seeking Political Gain, High Commissioner Tells Third Committee, Appealing for Return to Dignity | Meetings Coverage
By addressing the gross violations of human rights that have occurred for those seeking refuge within Europe alongside international relation theory, this section will use statistics alongside explanations of actions taken by the EU to analyze why this migration of refugees to Europe is being framed as such an unsolvable crisis, despite feasible means to remedy it.

The first assertion as to why the influx of people Europe is receiving is manageable is based on the following facts. Europe, which is home to about 1 million refugees and asylum seekers, has been accepting refugees since the start of the war. Germany has accepted the most, and is home to the fifth-largest displaced Syrian population in the world at 500,000, and other countries with smaller but still significant numbers – Sweden with 110,000 and Austria with 50,000. These countries are some of the few who welcome refugees, while some Eastern European countries including Poland, Czech Republic, and Hungary originally refused to accept any refugees or asylum seekers, especially those of color or religions other than Christianity. While it is technically unlawful for them to refuse to accept refugees and to not contribute to the financial costs of the processing of refugees, because of the veto system within the EU, there is no way to punish them or coerce them into contributing to alleviating this crisis. Member States within the EU have developed alliances based on their political agendas, and if a veto were to be called, would protect each other from facing reparations. These alliances, and overriding of the veto clause also work to allow Member States to protect

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their individual preferences and agendas. Throughout the last decade, especially as the number of refugees fleeing to Europe increases, politicians and the media paint an image of an incredibly high influx of people overwhelming European populations and creating chaos, along with the overcrowding of any free space available in the countries. This is a false and misconstrued image. A study sponsored by the European Commission addresses how within the EU there are approximately 1 million refugees, which, in comparison to its population of 508.2 million, is less than 0.1 percent of their population.\textsuperscript{141} To provide some perspective, the study points out how, the U.S. has a population of 327 million and around 12 million undocumented immigrants, who account for around 3.0 percent of the population.\textsuperscript{142} While the U.S. has faced some difficulties surrounding this matter, it was nowhere near being labeled a crisis, and neither is what is occurring in Europe.

**Exclusionary Rhetoric and Xenophobic Sentiments**

While the registering and processing of migrants is a difficult yet manageable task for the southern countries, the struggle to enforce it is exacerbated by fear and distrust of refugees combined with the lack of support and financial aid from the rest of Europe. The fear and distrust is created through two main methods: the influence of politics and the media. Politicians continuously manipulate the image presented of refugees to either gain support from their people by uniting them against a fear, in this case framing refugees as


dangerous, associated with terrorism, or a negative burden on the economy. This can be seen through the language they use in public statements and speeches— it is intended to dehumanize the refugee population. As mentioned previously, UNHCR stated, “The language of politics has become ruthless, giving license to discrimination, racism and xenophobia.”

These sentiments also embolden people with anti-immigration and xenophobia beliefs to act upon their hate. The uncertainty and chaos surrounding the conversation about refugees creates an outsider force that people on “the inside,” no matter how different, are able to put their personal views aside and unite. This allows the EU to advance their political objectives while the public, who are so focused on their own perceived lack of safety, remain fairly ignorant to the true and long-term implications of these policies.

Politicians center their dialogue around the comforts of the existing European culture that currently exists in these states, and how the influx of these 1 million refugees, who are only 0.2% of the entire European population, will challenge and corrupt the existing morals, values, and traditions. The rhetoric used often challenges the personal character of the people seeking refugee status, which plays into the public's distrust of them, as seen through the analysis above. Through the use of these tactics, politicians constantly relay information that makes this migration of people spiral into a crisis of numbers and security, when in reality, it is entirely manageable.

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144 Kaushal, “Blaming Immigrants,” 138.
The EU’s Ability to Allot Funds towards Refugee Programs

Despite claiming that this crisis is too expensive for them to handle, based on the extensive amounts they have spent on border control, the European Union has made it clear they have the funds to contribute to this humanitarian crisis. The EU has worked to make it systematically more challenging for people to seek refuge in the Member States through legal routes. Between 2007-2013, the EU expended close to 2 billion euros on “fences, sophisticated surveillance systems and patrolling their borders” and “only 700 million euros on reception conditions for refugees.” The European Commission’s 2021-2027 budget proposed to triple its spending on border controls “in response to the refugee crisis.” European First Vice-President Frans Timmermans explained this decision, stating, “Based on past experience and the knowledge that migration will remain a challenge in the future...strengthening our common EU borders, in particular with our European Border and Coast Guard, will continue to be a big priority. Increased flexibility of our funding instruments means we are ready to support Member States quickly; where they need it, when they need it – particularly in the event of crisis.” Commissioner for Migration, Home Affairs and Citizenship, Dimitris Avramopoulos said: “Better managing our external borders and migration will remain key priorities for the EU, the Member States and our citizens in the years to come...The reinforced funding

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147 European Commission, “EU Budget.”
will be pivotal in ensuring that we can implement these political priorities: further secure our external borders, continue to grant protection to those who need it, better support legal migration and integration efforts, counter irregular migration, and effectively and swiftly return those who have no right to stay.” 148 While Avramopoulos nods to their commitment to “grand protection to those who need it,” his statement also stresses the fact that their new plan aims to prevent more people from entering European borders but securing their borders, an action that inherently harms refugees and their ability to seek asylum.

In research conducted by Amnesty International regarding the migration crisis occurring in Libya, they analyze the steps taken by European governments in response to it.149 The Libyan crisis has not been given the attention that the Syrian crisis has, and it is clear that the EU is counting on people to remain ignorant to the true intentions and consequences of their actions. Libya, with its close proximity to Europe, has been utilized as a gateway for Middle Eastern and African migrants seeking routes through the Mediterranean Sea. The migrants hail from over a dozen countries within Africa, making this a deeply layered and complex situation with no easy or feasible solution. Following the uprising against and assassination of corrupt leader Muammar al-Gaddafi in 2011, the country spun into chaos that was further exacerbated by the power vacuum of factions

148 European Commission, “EU Budget.”
vying for control. Migrants take the risk of escaping through, as it is no worse than the situations they will face by remaining in Africa.

The European Union, instead of taking steps to mitigate this refugee crisis or the situation within Africa, has focused its agenda on instead preventing the migrants from leaving Africa. Their funding has been directed towards closing down both legal routes and overseas embassies, and increasing land border and coast guard patrols.\(^{150}\) In line with this, the EU is also investing money and support into treaties with neighboring countries to increase migration control and has created policies that penalize transport companies who bring people without proper papers into Europe, regardless of if those people register for refugee status or asylum upon entry.\(^{151}\) Increased coast guard patrols prevent people from fleeing countries in which oppression and violence are highly prevalent and globally known. Steps taken by the EU have included migration-crossing policies through the strengthened power of Libyan authority and providing training, equipment and other forms of support to the Libyan Coast Guard, without also providing resources to the people trapped inside the country without these escape routes.\(^{152}\) The Libyan border control and Coast Guard are notorious for mistreating people trying to escape the country, and for forcibly interning them in detention centers where they face extortion and torture. Instead of eradicating the human rights violations occurring though,
these steps are perpetuating them.\textsuperscript{153} By preventing people from fleeing Libya, they are increasing the number of women, men, and children trapped in a country where they are constantly at risk and an increase of those forcefully held in detention centers where there is proof that they are subjected to torture, extortion, and ill-treatment.\textsuperscript{154} During an EU Summit in July 2019, instead of attempting to reallocate towards refugees suffering in unlivable conditions, the EU dedicated their energy towards formulating plans to further prevent boats from carrying asylum and refugee seekers from North Africa to Italy, Malta and Spain. In addition, they stated that migrants found in the water were to be sent back to the country they fled from to be placed in detention centers and made an example of to others attempting to escape.\textsuperscript{155} This is not only a violation of international human rights laws the EU has agreed to follow, but a blatant disregard for human lives.

In order to gain and maintain public support for these political choices which blatantly violate human rights laws, the EU is presenting these decisions under the facade of protecting their European citizens and preventing lives from being lost at sea. This study by Amnesty International shows that despite the charters and treaties in place, and the way the European governments are presenting their actions, they are not only \textit{not} taking all the necessary steps to prevent these gross violations of human rights, but taking steps that benefit them with full knowledge of how it leads to detrimental situations for

\textsuperscript{154} Amnesty International, “Libya’s Dark Web.”
\textsuperscript{155} Ibid.
the Libyan citizen who cannot escape and seek fulfillment of their human rights and safety elsewhere.\textsuperscript{156}

By under-funding and overcrowding the refugee camps, they create an unsafe environment with a severe lack of access to nourishment, toilets, shelter, education, and medical attention, and dissuade others from seeking refuge in these places.\textsuperscript{157} The following chapter provides a detailed account of the conditions within Moria Camp, in Lesbos, Greece.

\textsuperscript{156} Amnesty International, “Libya’s Dark Web.”
CHAPTER IV: A Look Inside Moria Refugee Camp

Many refugees fleeing the Middle East arrive in countries along the coast of Europe, and are held in refugee camps. The largest of the five camps on Greece’s Aegean islands, Moria reception centre, located on the Greek island of Lesvos, has become “symbol of Europe’s response to the arrival of asylum-seekers and migrants on boats from nearby Turkey.” Refuges living in Moria embarked on perilous journeys to arrive in this camp where the conditions are, as stated by The Council of Europe's Committee for the Prevention of Torture (CPT), “inhumane and degrading.” The camp was built to accommodate a maximum of 2,200 people, but now hosts more than 18,000 people, over eight times higher than its designated maximum capacity. The UNHCR advises that camps provide 45 square meters per person of accessible camp area. With a size of 93,715 square meters, the New York Times states that “Moria is the most overcrowded place in the world.” With no space to add more tents, new arrivals are handed blankets and coats and sleep on the dirt with no cover above them. It does not have stable electricity, and only has 300 toilets. Both children and adults have resorted to

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using diapers at night, a humiliating trade-off to waiting in the dark in unsafe lines to use the toilet.\textsuperscript{163} The limited access to facilities, food, and medical support result in the refugees spending their entire days waiting in long, crowded lines to access these resources.

Over 13,000 refugees have left the borders of the camp to seek protection in the olive groves that surround Moria.\textsuperscript{164} Those who remain inside either share flimsy makeshift tents with strangers, sleeping close to each other on wooden planks between their cold bodies and the wet, muddy floor. During the harsh winters, those in tents are forced to risk the dangers associated with the small fires they build in their tents in order to keep warm in the freezing temperatures, while those without cover risk the health conditions that come with being consistently exposed to the cold air. 40 percent of those in the camps are children who have been uprooted from the comfort of their childhood rooms and carried by their parents on uncertain journeys through dangerous situations, across

\textsuperscript{163} Brigg, “Vulnerable Asylum-Seekers Struggle.”
deserts and oceans, and through other conflict zones, to seek asylum. Life within the camp is desolate for them – a mental health activity manager at a clinic within the camp said, “[The children] stop playing. Sometimes they stop communicating and they look at the ground. They refuse to talk. Others resort to self-harm, such as cutting themselves.”

There is no access to education of any kind for them within the barbed-wire walls, which inhibits their brains from developing, setting them back cognitively and socially.

There is no space to run and play, and the mud and debris that the children play with puts them at risk for a myriad of illnesses, which cannot be treated due to the lack of access to medical help. Annie Chapman, a doctor from London, spent three weeks at the camp in February 2020. She wrote, “I know many would have died every day in the three short weeks I was there: adults – both men and women – from violent stabbings that are stabilized by medics trained briefly in “stop the bleed”; children from a new outbreak of meningitis whose fevers spike at night in their tents; vulnerable women in labour;

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165 Donadio, “Welcome to Europe. Now Go Home.”
four-day-old babies sleeping in freezing tents.” Risk of medical complications are exacerbated by the fact that there is only one single water tap for every 1,300 people, and no soap available. Without the most basic tools to maintain hygiene, it is near to impossible to stay healthy.

The conditions seen in Moria reception center are not unique – the Council of Europe’s Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) released a report in 2019 which documents the violations they recorded. In camps in Athens and the Aegean islands, there was “a lack of doctors, medicines, food and drinking water.” In the Greek town of Fylakio, they reported over 95 migrants “being housed in a single room.” Migrants were suffering from untreated scabies, which were caused by the limited access to hygiene facilities, “clogged toilets, and dirty mattresses and blankets.” Additionally, there have been reports that refugees at several camps, including Moria, “reported suffering abuse and beatings at the hands of police.”

170 Ibid.
171 Ibid.
172 Council of Europe, “Poor Treatment of Immigration Detainees.”
The camps are under-resourced, and many speculate that this is intentional, in order to dissuade more refugees from coming. The publicized images of all the unbelievably dismal conditions in the camps are used to create propaganda that supports the message that the situation is unmanageable, to dehumanize the refugee population, and to dissuade other refugees from seeking asylum in these countries. It shows hopeful refugees who are on the dangerous journey of escaping the conflict within their home countries that they are not welcome, and they do not have a chance for a better, safer life within these borders.

The conditions in the camp are harmful to more than just those within the camps – the surrounding Greek community is suffering as well. Moria camp is named after the village it is in – a small town of around 2,000 people. This village, along with the collective local economy of Lesvos, is dependent on tourism, which dropped by over 50 percent in 2016 and has not improved since.173 In addition to the economic hit, locals are faced with violations to their space and property which leave them feeling unsafe in their own homes. Takis Bokolis makes a living creating olive oil from his family’s olive trees. He was incredibly distraught when some of his family’s trees, which are situated around the camp borders, were cut down by refugees to firewood. The local authorities took no action against the refugees.175 There have been nonviolent incidents between the islanders and those in the camps, but the villagers have still armed themselves in


174 Ibid.

175 Ibid.
preparation for such to occur. The impact of the Dublin Regulation, which has created this situation where refugees are trapped in limbo in Greece and its surrounding islands, is disproportionately affecting European citizens as well, which is a more accepting and compelling argument for a new legislature which would shift the burden to make it equal across states.

If the refugees in the camp were provided with shelter to keep them from the cold, they would not need to cut down the trees around the camp for firewood. Additionally, if they were not limited to living in the abysmal conditions of the Moria reception centre, they would be able to have significantly better lives and depend less on government funding to provide them with food, shelter, education, or health care, all of which they have limited to no access to within Moria camp. This was shown by a community of over four hundred refugees who left the camp and occupied an abandoned building in Athens, which they named the City Plaza Hotel.\textsuperscript{176} Originating from over twelve countries, they worked together to devise a way to live in cohesive peace. As I personally experienced when I attended a tour of City Plaza Hotel in Fall 2018 given by one of the residents, a thriving community was founded and nurtured, with language classes taught in rooms adorned with pictures of those residing there, a café for socializing, and a clinic run by those who practiced medicine in their home countries. The children attended Greek schools while their parents worked, and the residents collectively made decisions about their community and carried out the tasks themselves.\textsuperscript{177} This previously abandoned

\textsuperscript{176} Higginbottom, “Tensions Soar.”

building was alive with the harmony of foreign languages, music, and children’s voices, aromatic scents from the kitchen of meals being cooked, and buzzing with scenes of the residents busy trying to piece together a future. City Plaza Hotel achieved this peaceful and stable life for themselves without any funding from the Greek government or nonprofits, and in spite of the resistance they faced from the Greek police and public. The safety and comfort of the Hotel was a stark contrast to the overcrowded and under-resourced refugee camps many of them came from, and they work hard to keep it as a safe space for all who enter. Through hard work and commitment to strengthen each other, they were able to foster an environment for discussion, organization, and action, and above all, home for those seeing dignity, security, and hope.

In July 2019, the keys of the occupied building were returned to the “former employees” of the hotel, and all the refugees who were living in the building were relocated to safe housing within the city. City Plaza, in its 36 months of operation, welcomed over 2,500 refugees through its doors. Over 100 of the 126 rooms in the building were inhabited by 350 refugees at any given time, while 26 rooms served as communal spaces, including a dining hall and classrooms. It provided 812,250 hot meals, and the members collectively worked 74,500 hours of security shifts, 28,630 hours at the reception desk, 5,100 hours of language teaching and creative educational activities. City Plaza was able to accomplish all of this - warm nutritious meals, proper shelter, education, language teaching, employment efforts, and self-organized protection for those

178 City Plaza, “39 Months.”
179 Ibid.
within the community, without any funding from the Greek government. This goes to show the potential quality of life that those within the camps could have. City Plaza is a successful model of what a haven can and should be, and provides hope that, if given refugee status or approval to settle outside the camp, the refugees in Moria camp and other reception centers, can build a better future for themselves as well.
CHAPTER V: Conclusion

The legal frameworks examined here have mapped out the obligations that Member States have in regard to providing and protecting the rights of refugees and asylum seekers. Despite the different obligations, both compulsory and suggested, it remains clear that refugees and asylum seekers must have access to the fundamental rights as listed in the Charter of Fundamental Rights of the European Union, Council of Europe’s European Convention on Human Right, and the Court of Justice of the European Union. At the very least, they must be given the opportunity to apply for asylum, and to have their applications processed. There have been repeated reports of the failure of Member States to provide this, both intentionally, and due to lack of resources. This has escalated the influx of refugees into an unacceptable, critical humanitarian crisis in Europe, which may continue for years to come.

For the past nine years, Syria has endured the multi-sided civil war, fought between al-Assad’s Ba’athist Syrian Arab Republic, Islamic State of Iraq and Syria (ISIS), rebel groups, opposition factions, and foreign allies and forces. The chaos and corruption plaguing the country has involved several parties, but the Assad regime, as the governing entity, has maintained control over the country through methods such as monitoring technology, controlling internet access and electricity, and limiting access to food, medications, and other necessities through blockades. The cruel and sadistic manner in which the government responded to the graffiti painted by the young school boys, as addressed in the introduction of this thesis, highlights the Assad regime’s

propensity toward extreme violence and subjugation as a way of rule. The Syrian civil war does not appear to have a close end in sight, though it has been theorized that, despite how peace talks have “stalled along the conflict,” the war may conclude with a “slow surrender by a fractured insurgency.”\(^\text{181}\) If and when the fighting has ended and the war is over, however, what will remain? A desolate country which has been unrelentlessly demolished through the years of conflict - a country with the external displacement of over 5.6 million Syrians, internal displacement of more than 6.6 million Syrians, and an additional 13.1 million people within the borders who the UNHCR deems “in need.”\(^\text{182}\) The reconstruction is estimated to cost an upwards of 250 billion dollars – where will the money needed come from?\(^\text{183}\) Syria does not have the funds, and after the Syrian government’s destructive actions and their impact on global relations, the international community will be hesitant to become involved. Additionally, those who have not accepted refugees from this crisis lack incentive to assist, as made clear through the fact that they are largely unwilling to provide funding to ensure that refugees from the crisis have their basic human needs met.

The reconstruction of this country will be under the control of Assad, who has been accused of multiple war crimes including using chemical weapons, targeting medical facilities, initiating sieges which have starved out countless areas, and the


intentional bombing of civilian occupied areas. Even if Syria is rebuilt in the next decade, can Member States justify sending back refugees who have fled the brutal Assad regime? While not all the human rights instruments are compulsory and legally binding, “refugees have a right to international protection.” Under international human rights jus cogens law, countries must provide protection to persons who have “fled their own country because they are at risk of human rights violations and persecutions there. The risks to their safety and life were so great that they felt they had no choice but to leave and seek safety outside their country because their own government cannot or will not protect them from those dangers.” Under this definition, the EU would not be able to send refugees who fled Assad’s regime back to Syria, as the refugees would still be at risk of human rights violations and persecution, in addition to the complete lack of financial security and ability to advocate for themselves.

This means that the refugee camps which the EU is defining as “temporary,” are not temporary. The overcrowded and under-resourced refugee camps, including Moria, have come to be associated with the tagline, “Welcome to Europe. Now go home.” However, a high number of people who fled Syria are not going to be able to return to their home country when the war is over. This changes this crisis into a long-term

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situation that will follow both the refugees and the countries which have accepted them through the next decades – and serves as a strong call as to why, instead of crowding refugees into unlivable conditions in camps, countries must create a more sustainable solution.

After nine years, it is clear that the European Member States will not collectively collaborate and cooperate to create harmonization and rework the system into a more equitable one which will evenly distribute the responsibility, and through doing so, ensure the protection of proper human rights to the refugees and asylum seekers. Along with the initiation of a dialogue that addresses the shortcomings of the EU, direct intervention and funding, perhaps from other countries, is necessary. This will be in compliance with international human rights codes of conduct, specifically those which require countries to intervene in humanitarian crises that are not being properly addressed, and will begin the journey to resettling the displaced people who have been living in limbo for too long.

A reallocation of money is certainly necessary – but perhaps it need not be up to the European Union to fund it. The World Health Organization, a United Nations agency dedicated to setting and ensuring health standards, allocated 30 billion dollars of international humanitarian response aid towards the Syrian crisis – however, the entirety of that money has been directed to Syria, as a country.\textsuperscript{188} However, it is the UN’s policy to work with the country’s official representation, which in this case, is President Assad.

\textsuperscript{188} Sparrow, “How UN Humanitarian Aid Has Propped Up Assad.”
Human Rights Watch released a detailed report on how the Syrian government has developed “a policy and legal framework that allows it to co-opt humanitarian assistance and reconstruction funding to fund its atrocities, advance its own interests, punish those perceived as opponents, and benefit those loyal to it.” The Syrian government has control over the entirety of the funds provided through WHO, and despite proof of their war crimes and agenda which involves aggression towards civilians in order to maintain control, this policy has stood strong. The Assad regime has also been able to use these donor funds to circumvent international sanctions that were put into place in an effort to limit Assad’s destructive methods of keeping control of Syria. This shows that, without statistics to support the reality of the situation, President Assad has been able to use external funds to further enhance his power and ability to control information sources, which ultimately results in a cycle of increased relief effort funds being given directly to his regime, instead of the people in need of them.

If the international humanitarian aid funds are not being provided to the 13.1 million people within the country who the UN deems “in need,” and there is proof of that, then the money should not be entrusted to Assad’s regime. That is in direct violation of the purpose of the funds to provide humanitarian aid to those in need, not solely those who support Assad’s regime (and who Assad’s regime is already supporting in return). The UN could instead reallocate the money towards the millions who have been forced to

189 Human Rights Watch, “How UN Humanitarian Aid Has Propped Up Assad.”
190 Human Rights Watch, “Rigging the System: Government Policies Co-Opt Aid and Reconstruction Funding in Syria.”
flee Syria, and who have sought refuge in neighboring countries in the Middle East and Europe. If the EU had access to even half of the 30 billion dollars of humanitarian aid, populists and politicians would not be able to label refugees as burdens to their economy and society. The money would provide a way to create more jobs for Europeans, who could work to make the process of seeking asylum and processing refugees more effective and efficient.

The United Nations, as stated on their home page, is “an intergovernmental organization responsible for maintaining international peace and security, developing friendly relations among nations, achieving international cooperation, and being a center for harmonizing the actions of nations.”\textsuperscript{191} Along with their position as a powerful and influential global leader, they have the responsibility to intervene in situations like the Syrian civil war. Instead, the five permanent members of the UN security council have used their voting and veto powers to advance their personal agendas and secure support from their nations and allies, instead of making the responsible decisions to protect Syrian citizens. As intervening is not an option, they have chosen to involve themselves through humanitarian aid and associated missions.

United Nations-led humanitarian efforts, however are obligated by international law to receive approval from the reigning government to enter and provide relief aid, and in the case of Syria, the Assad regime has used this clause to efficiently keep relief efforts out of rebel-controlled areas and only within government territory, limiting the scope of

who receives help.\textsuperscript{192} As of late, the Syrian government has been denying permission to UN relief programs requesting to provide relief to humanitarian emergency areas within the conflict-ridden country, despite the fact that the United Nations identifies 13.1 million people in need within the country.\textsuperscript{193} When the government of a country entangled in a nine year civil war with such high casualties and displacement numbers is denying relief efforts entry, it becomes clear that, if the United Nations is unable to access the people who need help, they need to dedicate their efforts to assistant the refugees from the conflict who they do can help, and who are very much in need.

The conditions of the humanitarian crisis will continue to escalate in the coming years unless efficient and effective actions are taken immediately to mitigate the damage already done. The current COVID-19 pandemic that the global community is collectively facing is proof that the future is unpredictable, and that additional unexpected crises can transform the refugee crisis into one that impacts much more than this specific population. As seen through the description of Moria camp in Lesbos, the dire conditions for refugees have created a situation where the Greek citizens have been negatively impacted as well. As such, “Europe’s ideals—solidarity, human rights, a haven for victims of war and violence—dissolve in a tangle of bureaucracy, indifference, and lack of political will.”\textsuperscript{194} Sustainable and humane options must be developed and


implemented, a task proven feasible by the success of City Plaza Hotel discussed in Chapter IV. This also requires a shift away from the unfounded, xenophobic rhetoric that surrounds the issue. Filippo Grandi, United Nations High Commissioner for Refugees, reaffirms this through his call for a “return to dignity, human rights and a sense of shared humanity.” The progress resulting from decades, indeed centuries, of international debate, cooperation and even consensus on what constitutes human rights and legal protections for our most vulnerable is being severely tested. Humanity is at risk of being lost or forgotten through the mismanagement and misperceptions of the current refugee crisis, which have not only resulted in an escalation of this situation, but may set a dangerous precedent for the future.

195 The City Plaza Hotel worked on a small level, but government and NGO involvement would enable the framework to be seen on a larger scale. This statement recognizes that City Plaza did not exist on that scale, and is made with the understanding that each situation is unique, and cannot be considered or approached equally, but rather, on a case-by-case basis.

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