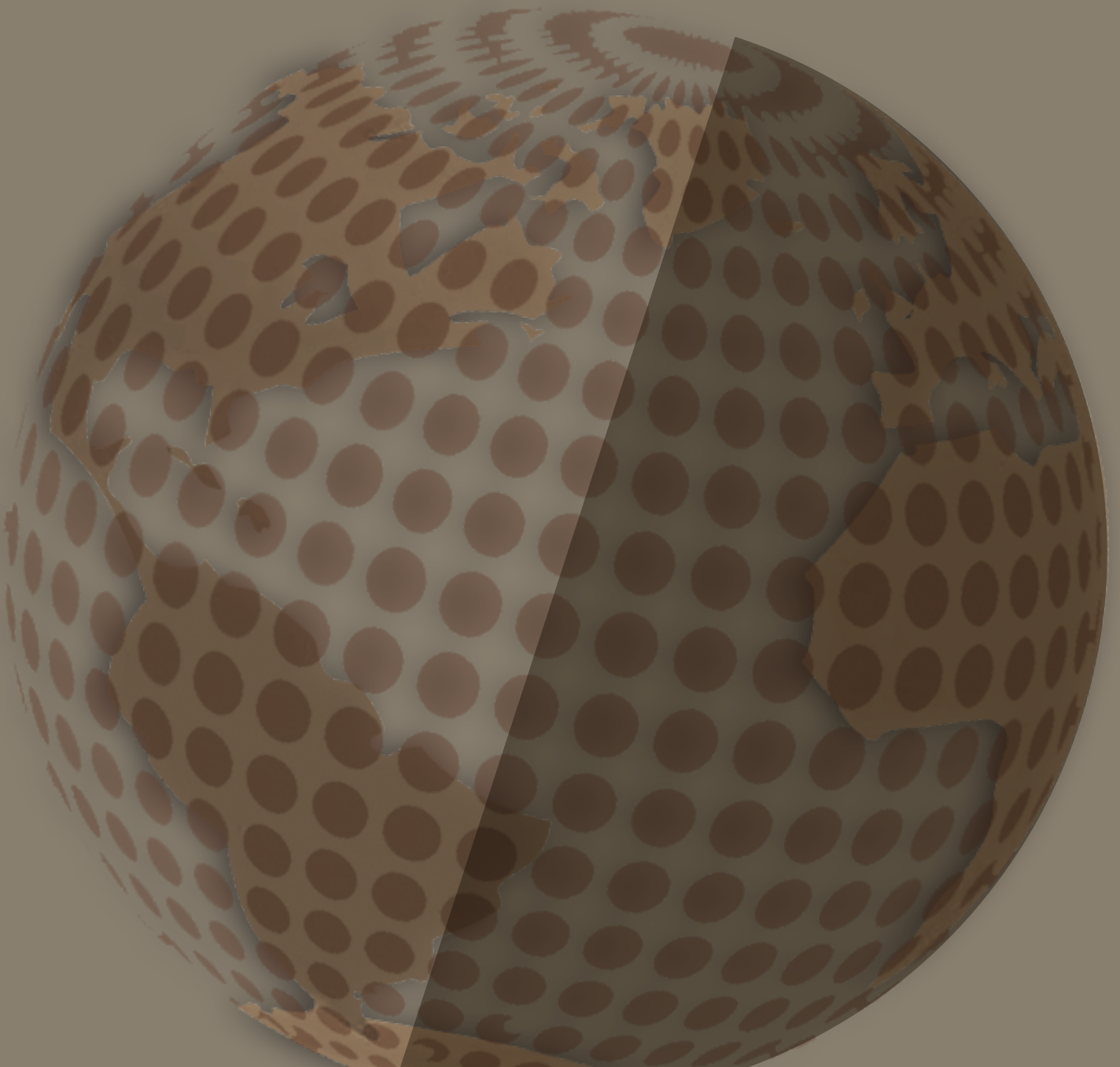


Rhodes College Sigma Iota Rho

MODUS VIVENDI

VOLUME XXV, SPRING 2019



Rhodes College Sigma Iota Rho

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Letter from the Editor

Dear Readers,

On behalf of the editing staff, we are glad to bring you the 25th edition of the Modus Vivendi journal. Modus Vivendi is a Latin term meaning “way of life.” This is a term used in the social sciences to mean a political agreement is reached, allowing conflicting parties to discuss their differences in peace. We are proud that Modus Vivendi is one of the only undergraduate international relations journals in the country and continue to have strong interest in the Rhodes community. Our staff owes a great amount of gratitude to the Rhodes College chapter of Sigma Iota Rho and the International Studies Department. Professor Chen Chien-Kai has been a fantastic partner for our journal as well as a helpful partner throughout my college career. I would also like to thank the Rhodes College Communications Department for their help publishing this journal. The goal of the Modus Vivendi journal is to discuss issues in international affairs from around the world. We hope that this journal will educate students on issues concerning regions around the world and inspire the next generation of International Studies majors.

This year’s edition contains essays on the Middle East, North Africa, Europe, Latin America, East Asia and even the United States. These thought-provoking essays introduce pressing issues such as the legacy of colonialism, French law enforcement, UN peacekeeping in Haiti and the power of mass media and you, the reader, can learn about the issue and potentially come up with your own interpretations of the issues. We also have gathered amazing photos from students who have studied abroad. These photos will hopefully inspire you to go out and explore the world for yourself and perhaps submit an essay or photo for future Modus Vivendi journals! I would again like to extend a message of congratulations to Alexander Coughlin, Ethan Fox, Dylan Craddock, Lillie Stephens, Seongjoon Hwang and India Nikotich for their essays that were published in this year’s journal. Also, congratulations to Emily Perry, Hamid Shirwany, Seongjoon Hwang, Dylan Craddock, and Lily Flores for their international photographs that are included in this publication. Thank you to the editing staff for this year’s journal: Dylan Craddock, Anne Healy, Katie Kuhn, Kristen Morris, Lily Flores, Lillie Stephens and Matthew Rush. You all were fantastic, and I thank you for your efforts to make these essays the best they can be! Without further ado, I hope you enjoy this journal and expand your interest in the International Studies program!

Respectfully,

Benjamin Tracy

Editor-in-Chief, 2019

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Palermo: Buenos Aires, Argentina

Dylan Craddock

Colonialism's Shadow: How Algeria's Colonial Legacy Shaped Its Post-Independence Sociopolitical Development

Alexander Coughlin

I. Introduction

In terms of colonial legacies, Algeria's situation is unique. More so than most other colonies—which were relatively disposable and held primarily for resource extraction—Algeria was a settler colony. French citizens were encouraged to immigrate to Algeria and efforts to assimilate the local population were widespread. Algeria was even considered to be an integral part of France, on par politically and culturally with the *départements* (subnational administrative units) of the metropole. For this reason, the French were particularly disinclined to grant Algeria the autonomy for which its people yearned. After a notoriously bloody revolutionary war that spanned seven years and resulted in tens of thousands of casualties, Algeria finally declared independence from France on July 5, 1962. It then began a long and turbulent journey of social and political development. In this paper, I will investigate this question: to what extent has Algeria's colonial legacy shaped its post-independence sociopolitical development?

Algeria's post-independence sociopolitical development has been stunted by the lingering effects of its colonial past. As an independent state, Algeria has never fully escaped the shadow of French colonization. From the onset of its independence, it has suffered from a crisis of national identity that can be traced back to the era of *l'Algérie française*—French Algeria, as it was known. During colonial times, identities were particularly salient, as France practiced textbook divide-and-rule strategies by elevating the status of

the French citizens living in Algeria while pitting the local populations, which included Arabs, Berbers, and Jews, against one other (Zack, 2002).

Simultaneously, France consistently neglected to establish effective and lasting political institutions in Algeria. Throughout France's colonial reign, *la question d'Algérie* (the question of how exactly Algeria should be governed) was never resolved. This left colonial Algeria in a state of social and political limbo that carried over into its independence. In the wake of the revolution, Algeria was forced to determine what type of country it should strive to be. Should it adopt Marxism, Islamism, secular Pan-Arabism, some variation of these, or something else entirely as its governing ideology? Algeria has fought over this issue internally ever since its independence, and, as a result, its politics have long been marred by factionalist tensions.

II. Identity in French Algeria

France's political and cultural relationship with colonial Algeria was complicated. Settlers from France known as *pieds-noirs* immigrated to Algeria beginning with the French occupation of Algiers in 1830. To accommodate the settlers, the French government began to promote their interests at the expense of the natives. The *pieds-noirs* settled along the coast on the most hospitable land in Algeria and established *petites frances* in cities like Algiers and Oran—cosmopolitan quarters where the shop-lined boulevards and grand public squares were reminiscent of those in Paris—while the local populations were pushed into the city outskirts. As the French constructed churches and cathedrals throughout the colony, the religious liberties of the

local Muslim population were severely limited (Kashani-Sabet, 1996). Existing educational institutions were reformed so that classes were taught in French in lieu of Arabic. In 1892, more than five times as much was spent on educating the children of *pieds-noirs* than on Arab Muslim education (Library of Congress, 2013).

Meanwhile, the French people developed a deep cultural connection to Algeria, and many viewed the colony as an inseparable extension of their own country. In the eyes of many people living in Metropolitan France at the time, to express even a modicum of support for Algerian independence was to question the supremacy and sovereignty of France itself. Algeria was perhaps the most prized possession of the French colonial empire. Some of France's most celebrated icons, including Albert Camus and Yves Saint Laurent, were themselves *pieds-noirs*. Clearly, a divorce between France and Algeria was never going to be a clean break.

Many scholars have noted the ways in which the French colonizers relied on both existing and constructed identities to maintain their control over the native Algerian population. Historically, Europeans had viewed the Arab world as a natural enemy, and by the 19th century negative stereotypes of Muslims informed by past military confrontations and warped understandings of Islamic theology and Arab culture were well established throughout Europe (Ladjal, 2012). The French simply drew from these stereotypes to portray the Algerians as a backwards, stateless people. In contrast, the *pieds-noirs* were painted as Algeria's saviors, bringing culture and refinement to an otherwise uncivilized land. For over 130 years of colonial rule, the French successfully manufactured an identity conflict by importing their own citizens to Algeria and then subjugating the local population. Even language was weaponized as a tool for colonial suppression. For example, when addressing an Algerian, French settlers would commonly utilize the informal *tu* form of the French pronoun meaning 'you'. Algerians, on the other hand, were expected to address the French

with the much more formal *vous* (Evans & Phillips, 2007, p. 39). This distinction mirrored how a subordinate might speak to a superior and served as a constant reminder of the Algerians' second-class citizenship in their own homeland.

III. France's Divide-and-Rule Strategy

At the time of French occupation, Algeria's population was largely Sunni Arab with a sizable Berber minority and a smaller, but still significant, Jewish minority. In order to keep the Arab majority at bay, France granted priority status to Algeria's Jews (Zack, 2002). In 1870, the Crémieux Decree extended rights of citizenship to Algerian Jews; Arab Muslims, however, were left disenfranchised. This distracted the Arabs from their unfair treatment at the hands of the French and diverted their anger toward the Jews (Evan and Phillips, 2007, p. 35). The French also outwardly favored the nomadic Berbers, appointing them to powerful positions and building schools in their rural homelands (Ciment, 1997, p. 47). Many Berber tribes such as the Kabyle people capitalized on their preferential status and embraced the French language to a greater extent than the Arab population (*The Economist*, 1998). As a result of the Arabs being consistently treated as the cultural 'other' while the Berbers advanced under French rule, existing cultural and linguistic differences between Arabs and Berbers were exacerbated during the colonial era. The French also forcibly stratified the Arab Muslim population by social class. Educated Arabs known as *évolués* who adopted certain aspects of French culture were granted more political and civil rights than less assimilated Arabs (Zack, 2002).

Ultimately, faced with rampant and state-sponsored anti-Semitism in the post-independence period, practically all of Algeria's Jews have since left for France or Israel (Library of Congress, 2013). The seeds of this diaspora were indirectly sown by the French, whose divide-and-rule tactics fomented Arab resentment of the Jews. Despite their shared faith, tensions between the Arabs and Berbers stemming from France's divide-and-rule strategy

have continued to fester since the colonial era. After Algeria declared independence in 1962, as a sign of defiance toward the defeated French colonizers, Arabic was declared the official language (Kashani-Sabet, 1996, p. 264). A series of Arabization policies were subsequently put into place to discourage the usage of French and Berber languages in the public sphere. Many Berber tribes that had mastered French as a second language had to adjust to the fact that Arabic, a language that many had little to no grasp of, was officially the new lingua franca (*The Economist*, 1998). Language has always been at the center of the Arab-Berber divide in Algeria, and disagreements over which languages should be deemed official continue to pervade the national discourse surrounding culture and identity.

IV. France's Failure to Establish Lasting Political Institutions

The French took for granted that Algeria would always remain a loyal pawn in its colonial empire. They governed Algeria with little consideration for the precedent they were setting for its eventual self-rule. The French designed all political institutions established during the colonial era chiefly with the interests of the *pieds-noirs* in mind. As a result, colonial governance in French Algeria was extremely inconsistent. In areas where large portions of *pieds-noirs* lived, the French instituted representative democracy, allowing for the election of mayors and regional councils. In the remote 'indigenous communes' of southern Algeria, the official policy was known as *regime du sabre*—government by the sword. Effectively, this *regime du sabre* was analogous with military rule. In mixed communities that were split more evenly between the *pieds-noirs*, Arabs, and Berbers, there were some elected officials; however, the system was set up in a way that favored the French. For example, in Algeria's three official *départements*—centered in the cities of Algiers, Oran, and Constantine—*pieds-noirs* were permitted to run for public office, but any Muslim officials had to be appointed by the central government in Paris. Furthermore, Muslim

representatives could not account for more than one-third of the seats in the *département* councils. Muslims were also barred from serving as mayors or assistant mayors (Library of Congress, 2003).

Colonial policy was largely carried out by the *bureaux arabes*, or Arab Offices. These offices were staffed by French experts who gathered information on the indigenous populations and reported back to Paris. They were also responsible for maintaining peaceful relations between the *pieds-noirs*, Arabs, and Berbers, as well as for supervising the actions of local tribal governments. The *bureaux arabes* acted as a moderating force on colonial policy, occasionally ruling in favor of the indigenous populations in disputes with the *pieds-noirs*. Nevertheless, they represented yet another barrier to indigenous self-rule by performing functions that could have been left to the locals. Despite efforts by the French to restrict the ability of the indigenous population to govern itself, the Arabs and Berbers of Algeria did manage to experiment with self-rule at times. Impressed by the sophistication of the Arab and Berber cultures, Napoleon III scaled back the *regime du sabre* and granted greater autonomy to local tribal officials. His eventual goal was to cede land back to the indigenous populations and establish a semi-independent 'Arab Kingdom' with himself as its benevolent monarch. However, internal French politics and the influence of the *pieds-noirs* ultimately prevented him from doing so, and military rule was reinstated in Algeria in the 1870s (Library of Congress, 2003). In 1932, three large tribes assembled to elect Abd al-Qadir, a prominent early revolutionary figure, as their emir. This event signified growing cohesion amongst Algerians and "marked the origins of modern Algerian statehood" (Kashani-Sabet, 1996, p. 265).

V. The Effects of Algeria's Colonial Legacy

In his article *Identity and instability in postcolonial Algeria*, Dr. Jonathan N.C. Hill firmly establishes the importance of nation-building and

identity for the development of post-colonial societies. According to Hill (2006), nascent post-colonial states must “preserve [their] integrity” by establishing “‘hegemony’ over their respective societies” (p. 2). They do this, he argues, through nation-building. Nation-building is essential for any newly formed state because it links the state to its people and creates a national narrative around which the populace can coalesce. Furthermore, nation-building is “crucial to legitimating and consolidating the authority of the government and the state structures” (Hill, 2006, p. 2). One strategy that states rely on to conduct nation-building is national identity construction. Hill states that “new and old states alike” construct identity by drawing on “myths, traditions and rituals of a real or imaginary past whilst simultaneously outlining a shared (and often glorious) future or destiny” (p. 3).

After it gained independence, Algeria could not immediately build a nation, because it lacked a shared, deep-seated history that could unify its people behind the newly formed state. The Algerians had banded together and vanquished their colonial oppressors in a violent revolution, but, as Lizabeth Zack (2002) points out in her article *Who Fought the Algerian War? Political Identity and Conflict in French-Ruled Algeria*, the identities of the local Algerian population before and during the independence war were far more splintered than had previously been suggested. In the existing literature on this subject, everyone who was not French has essentially been thrown into the catch-all category of ‘Algerian’. However, Zack notes the existence of “divisions among the natives, by class, ethnicity, region, and gender, generated terms such as ‘Arab’ and ‘Berber’ and ‘fellaghin’ and ‘évolués’” (Zack, 2002, p. 56). These divisions were exploited by the French to keep Algerian society in a state of stratification throughout colonial rule (Kashani-Sabet, 1996). Thus, the challenge of uniting Algerians from all walks of life behind a single national identity was monumental.

As the first official leader of an independent Algeria, Ahmed Ben Bella sought to attain and preserve Algerian unity (Hill, 2006). His primary mechanism for doing so was the *Front de Libération Nationale* (FLN). The FLN had been the main combatant against the French army and the pro-French paramilitaries during the war for independence. After the war, Ben Bella repurposed the FLN as a political party. Drawing from the FLN’s past as an insurgent force in the fight against colonialism, Ben Bella stressed Algeria’s revolutionary character. Under Ben Bella, the FLN came to represent everything that the French were not. Its ideology was unabashedly socialist, secular nationalist, and anti-imperial, connecting the Algerian struggle to other independence movements throughout Africa and the world. This ideology, Robert B. Revere (1973) argues in his article *Revolutionary Ideology in Algeria*, “created solidarity and a sense of identity and it outlined a future for Algeria” (p. 481). In this way, “the definition of the nation promoted by Algeria’s post-independence governments was fundamentally shaped by the country’s colonial experiences” (Hill, 2006, p. 1).

At the FLN’s core is its revolutionary ideology. The two cannot be separated. Through the latter half of the 20th century, the FLN remained by far the most dominant party in Algerian politics. Even after Houari Boumédiène deposed Ben Bella in a bloodless coup in 1965—what would be a shock to any political system—the FLN maintained its synonymity with the state. Both Algerian national identity and its very statehood are inextricably tied to the FLN’s revolutionary, anti-French colonial ideology. As the sole political party, the FLN needed only to “manage the symbolic gains from the liberation war” in order to stay in power (Addi, 1998, p. 49). Despite all of the setbacks that their country faced in the aftermath of the liberation war, the one thing that Algerians seem to have collectively agreed on in the 20th century is that independence was better than the era of French imperialism that preceded it.

Ironically, the FLN held its iron grip on Algeria in much the same way that the French did—by cracking down on dissidents, selectively fixing elections, and turning to the military for support. All political, economic, and social organizations in Algeria were “subordinated to the will of the party, and the party has operated in an inherently undemocratic fashion” (Ciment, 1997, p. 2). In the absence of any existing political institutions following its independence, Algeria had to start from the ground up. To ensure stability, Algeria (and the FLN) turned to secular authoritarianism and single-party rule. Its regime would continue, unabated, until the 1990s, when Algeria’s first ever multiparty elections were held. In the 80s and early 90s, many Algerians grew increasingly disillusioned with inefficiency and corruption in Houari Boumédiène’s socialist regime and the FLN’s continuous hold on power. They began to shift their support from the FLN to other parties, especially Islamic fundamentalist groups such as the newly formed Islamic Salvation Front (FIS) (Ciment, 1997). President Chadli Benjedid, Boumédiène’s successor, allowed the fundamentalists a greater political voice, which only accelerated the FLN’s demise. In the 1992 elections, the FIS won an astounding two-thirds majority of the People’s National Assembly, embarrassing the FLN (Evans & Phillips, 2007, p. 169).

The opening up of Algeria’s political system in 1992 unleashed a Pandora’s box of identitarian grievances, the roots of which could be traced back to colonialism. Liberal, French-speaking Algerians were suddenly able to cast their votes for secular democratic parties. Likewise, Berbers formed their own parties that spoke out against the FLN’s Arabization policies. The Islamic fundamentalist contingent turned out in droves to support the FIS; yet, many also backed the FIS simply as a way to protest the FLN, a choice that they were now free to make (Addi, 1998, p. 51). These various identities were in existence before the first *pieds-noirs* crossed the Mediterranean and landed at Algiers. However, the discord between them undoubtedly intensified

during the colonial era as a direct result of the French colonial strategy.

VI. Conclusion

In 1964, just after Algerian independence, the revolutionary FLN hero Mohamed Boudiaf penned a book with the title: *Où va l’Algerie?* (Where is Algeria headed?) (Tahi, 1992). In this book, Boudiaf strongly pushed back against what the FLN-controlled government had become under Ben Bella: a single-party, authoritarian regime. Algeria was, and still is today, a fractured society, whose people were divided and ruled for so long by the French that they have struggled to overcome their differences. It is locked in a vicious cycle. Due to a lack of preexisting political institutions at the time of independence, Algeria was left to fend for itself in state-building. Still experimenting with self-rule, the FLN quickly learned that secular authoritarianism and single party rule can ensure temporary political stability, but they can also beget a groundswell of civilian anger and pressure for regime change that creates further instability. Unfortunately, the answer to Boudiaf’s query in his book title seems to be: toward more of the same. Algeria, throughout its time as an independent state, has been pre-programmed to repeat history due to the impact of its colonial legacy.

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Al-Jazeera and Qatar's Foreign Policy

Ethan Fox

Qatar is a small state in a neighborhood of larger actors. Given its size, Qatar should not have much influence over regional decisions. Qatar, however, can count Egypt and Saudi Arabia as among its peers. Qatar is a major player in Middle Eastern relations, and its influence can be attributed to the role the Al-Jazeera network plays in the region. Al-Jazeera stands among the few independent media organizations in a region devoid of true freedom of the press. The network differs from other Middle Eastern stations in which it is not afraid to go after other heads of state. The power the network has in defying the will of other Arab states positions Qatar as a true caretaker of the Arab World. From this position, Al-Jazeera helps branding Qatar as a “mediator” in a conflict-driven region. It is this “mediation” branding that gives Qatar its disproportionate power in the Middle East. As such, Al-Jazeera has played a role in transforming Qatar from a small minor nation to a major power on the world stage.

The Challenges Facing Small States & Qatar's Foreign Policy

Qatar's foreign policy is shaped by its desire to overcome some of the institutional challenges it faces within the region and the international system. One of the most daunting challenges that Qatar must get around is its size. Qatar is a small state in a region dominated by larger players, such as Egypt and Saudi Arabia. Due to the discrepancies in power, direct competition with these larger players puts “[Qatar's] situation in the longer term...in doubt” (Peterson 2006). Because of its size and limited resources, small states, like Qatar, find themselves without a strong security apparatus to fend off threats. The small nation has “ample...financial resources...and its oil and gas exports...in demand” (Peterson 2006). While possessing these resources

are a boon to the Qatari economy, it presents a grave security threat. Qatari resources “may provoke envy and hostile action” in neighboring states, such as the case of the Iraqi invasion of Kuwait in 1990 (Peterson 2006). As such, security concerns often force smaller states to rely on the assistance of other states for protection. Such arrangements, however, often carry a hidden cost. Due to their perceived vulnerabilities, “larger regional...powers may force a small state to acquiesce in an unequal bilateral relationship” (Peterson 2006). In the case of a similar nation, the UAE, its “geographic position in a strategically and economically vital part of the world makes it vulnerable to larger powers...” forcing the small nation “to pursue a policy consistent” consistent with its larger neighbor: Saudi Arabia (Peterson 2006). With Saudi Arabia as its closest neighbor, Qatar finds itself having the same set of geopolitical considerations as the UAE. In the years following its independence, Qatar followed the path of other small Gulf states. Qatar's social and ideological makeup mirrored that of its much larger neighbor. As such, Qatar's foreign and domestic policies “were considered to be an echo of Saudi Arabia's” (Rabi 2009). Yet, while their policies were in harmony, Qatar found itself in conflict with the more powerful country. In 1992, Qatar and Saudi Arabia disputed over land claimed by both parties. The conflict resulted in armed conflict in the disputed territory, which was further escalated by the Saudi construction of a highway in these territories, “effectively depriving the Qataris free movement to the [UAE]” (Rabi 2009). As Qatar's only land connections are with Saudi Arabia and the UAE, the attempts to close Qatar's borders would have limited the nation's ability to move its natural resources to the international market and would have crippled the oil-dependent nation's

economy. Throughout the 1990s, the relations between the two countries deteriorated. The Saudi government rejected the Qatari candidate for General Secretary of the GCC, and Saudi ally, Bahrain, “graciously welcomed the deposed ruler of Qatar” despite the wishes of its new ruler, Shaykh Hamad (Rabi 2009). The lack of power to effectively push back against Saudi Arabia resulted in Qatar spending the first years of its independence as a Saudi vassal, its fortunes dependent on the whims of the Saudi kingdom. Qatar’s past dependency on Saudi Arabia was symptom of its limitations as a small state.

Many small states rely on the international system to ensure their survival. These nations need the assistance of other states to fulfill the needs that they themselves cannot fulfill. Small states are “more cognizant of their limitations and vulnerabilities,” making them much “more inclined to ensure...defense...and economic assistance...through a policy of effective alliance-building” (Peterson 2006). In the case of the Gulf states, most smaller states make the decision to rely on the largest regional actor, Saudi Arabia, for economic and regional security. Just like Qatar in its early years, states like the UAE and Bahrain are sometimes seen as little more than vassals of the Saudi state. Qatar, on the other hand, has taken a path independent of the main regional actors in the Middle East. And, it has done so by branding the state as a major diplomatic power for the Arab World.

Mediation & Qatar’s Foreign Policy

Despite the many conflicts tearing apart the region, Qatar earned international renown as a regional mediator and peace broker for the Middle East. Qatari mediation, however, is unusual in part because it is inhabiting a role usually taken by larger powers. In the context of history, “mediation often takes place under the aegis of one of the major powers” and, in some cases, “the role of mediator has traditionally been played by...regional heavyweights” (Kamrava 2011). For the Middle East, Egypt and Saudi Arabia have long identified

themselves as regional powers and have engaged in mediation diplomacy to expand their interests throughout the region. Qatar, by no means has the resources or strength of Egypt or Saudi Arabia, yet it has “emerged as the region’s most prolific and visible mediator” (Kamrava 2011). Qatar has achieved diplomatic success by positioning itself as an alternative to other regional powers due to its perceived neutrality in its mediation efforts. Indeed, unlike Egypt or Saudi Arabia, Qatar has positioned itself as an unbiased mediator. Both regional powers “are perceived to have manifold agendas and interests across the region,” as such, “their mediations efforts are...seen as a means of furthering their own specific interests” rather than what is good for the parties engaged in conflict (Kamrava 2011). Qatar, being a new player to regional mediation efforts, is “perceived to be an honest broker...[without] other agendas or ulterior motives” (Kamrava 2011). Being perceived as an ‘honest broker’ helps ensure success as a mediator. As an ‘honest broker,’ Qatar can claim that its only goal is peace. This impartiality allows Qatar to be “believed by both disputants, and therefore be successful” in its mediations (Kamrava 2011). Qatar’s perceived impartiality is responsible for some of its success in major diplomatic efforts. In the case of the Darfur Crisis, Qatar was able to “[supplant] historically-linked Egypt” from its role as mediator for Egypt could not claim the “objectivity [nor] even-handedness” of Qatar (Kamrava 2011). As such, by branding itself as neutral party, Qatar can enter diplomatic negotiations as a major actor, rather than take a backseat like other Gulf monarchies have been content to do.

For Qatar, mediation is not a facet of their foreign policy. Rather, mediation is their foreign policy. Mediation has long been an attractive tool for nation-states. Early nation-states engaged in mediation as they saw the “prestige attached to mediation international conflicts” (Kamrava 2011). The logic for mediation has not changed in the modern era. Mediation is still a means “to shine on

the world stage” (Kamrava 2011). For Qatar, it is a means to bring attention to their small state, in a region surrounded by more powerful neighbors. Qatar knows of the prestige that comes along with successful mediation, and how it conducts mediation shows how global image influences their diplomacy. By establishing a global reputation, other nations look to Qatar to settle international disputes instead of other regional actors. In doing so, Qatar supplants Saudi Arabia’s traditional role as the major diplomatic power in the Middle East. Qatar’s regional ambitions make media attention a top priority in Qatar’s mediation diplomacy. Rather than keep mediation efforts a secret, “Qatari diplomats frequently [grant] media interviews” during peace talks, using the air time to “[reflect] on [Qatar’s] role in positive...glowing terms” (Kamrava 2011). The use of media helps Qatar create a global brand based off their mediation efforts, and one of the outlets Qatar uses to broadcast this message is Al-Jazeera.

What is Al-Jazeera?

Founded in 1996 by the leader of Qatar, Emir Hamad Bin Khalifa al Thani, Al-Jazeera differentiated itself from its competition by providing a uniquely Arab voice to its Arab audience. Regional Arab networks did not have much success as a majority of the Arab population saw such networks as “little more than an extension of the views of their own governments” (Bahry 2001). Competitors, like the BBC or Voice of America, became very successful by filling the void in Arabic-language news programming. Yet, such networks relied on foreign sources and were considered Western propaganda, “whose ultimate goal was to serve their own countries,” not as objective arbiters of truth (Bahry 2001). Unlike the BBC, Al-Jazeera is a product of its own region. The network hires from “all over the Arab world,” creating “an Arab source, based in an Arab country” providing authentic Arabic programming to the Middle East (Bahry 2001).

Al-Jazeera’s popularity is, in part, due to its legitimacy for providing Arab-oriented coverage of

Arab news events. Al-Jazeera was the only news network that had “cameras... on the ground” during the 1998 bombing campaign against Saddam Hussein (Lynch 2005). The network’s coverage of the bombings served as a catalyst to a wave of anti-American protests that started throughout the region, in reaction to “Al-Jazeera’s graphic footage” (Lynch 2005). But, Al-Jazeera’s live coverage of these events was only one part of the network’s program offering. Al-Jazeera also is the home of a wide catalogue of talk-shows that would prove instrumental in driving the popularity of the station. These talk shows would often ask their viewers to call in on the show to share their own opinions alongside commentary from Arab pundits that “[express] ideas that directly oppose their rulers” (Bahry 2001). This level of participation was new in the Arab world. One of Al-Jazeera’s hosts, Faisal al-Qasim, goes on to say that programs like his own are creating an “open forum of ideas” whose purpose is to “educate the Arab...to listen, not only to his own opinion, but to that of the other side as well” (Bahry 2001). In many ways, Al-Jazeera has become just that. With programs, like al-Qasim’s “Opposite Direction”, Al-Jazeera has “succeeded in forming an Arab public opinion, probably for the first time in history” (Lynch 2005). As such, Al-Jazeera proved to be the “ideal platform” to address “all the pressing issues of the day for the Arab Muslim public,” and could be a place where Arab Muslims could engage in problems in a meaningful way (Warren 2014). Yet, the proliferation of public debate does not sit well with many of the states that make up the Middle East and challenges the existing status quo.

Opposition to Al-Jazeera

Due to the nature of its programming, Al-Jazeera often comes into conflict with the authoritarian regimes of the Arab world. In the case of Jordan, Al-Jazeera’s offices were closed in 1998 after a guest “criticized the regime and stated his views of what the Jordanian people thought of their government” (Bahry 2001). Due to the station’s close ties with the Emir of Qatar, the Qatari government often finds itself in conflict with states that disagree with Al-

Jazeera's coverage. When a viewer called in on an Al-Jazeera talk show to criticize the emir of Kuwait, the "Kuwait government took [the viewer's] words as a personal insult...[and] visited Qatar to express [their] outrage" (Bahry 2001). But, there is little these nations can do to stop Al-Jazeera's coverage. With Al-Jazeera's market availability and popular programming, the network has become "so powerful...and influential that it is difficult for any...Arab country to boycott it permanently" (Bahry 2001). Al-Jazeera's apparent power and invulnerability has translated into large shifts in the geopolitical atmosphere. For instance, Al-Jazeera's public coverage of the Libyan uprising in 2011 helped "Qatar...and [other] Arab states... [to push] for international intervention in Libya," ultimately culminating in the death of Libyan dictator Gaddafi (Khatib 2013). And, from the rubble of Gaddafi's compound, the news cameras captured a striking image: "the image of the Qatari flag hoisted by Libyan rebels" (Kamrava 2011). Despite Al-Jazeera's claims of being a private company, the network has played a large role in expanding Qatar's soft power throughout the region.

Al-Jazeera & Qatar's Foreign Policy

While Al-Jazeera provides an "open forum of ideas," the network's main purpose is to provide a platform to further enhance Qatar's brand as an alternative to Saudi Arabia. As previously stated, Al-Jazeera enjoys widespread popularity by positioning itself as "the only Arab alternative to global channels such as the American CNN..." and the rest of the "media landscape saturated by state media" (Khatib 2013). Through its intense coverage of the 2000 Palestinian intifada and "its unashamed criticism of Arab leaders," Al-Jazeera has created a niche in which it can claim independence in a market dominated by state interests (Khatib 2013). Al-Jazeera's independence had the indirect effect of elevating Qatar's position within the Middle East. With very few alternatives that reflected the interests of everyday Arabs, Al-Jazeera was the lone news network to "[win]...the hearts and minds of Arab audiences" (Khatib 2013). The ability of Al-Jazeera

to speak directly to Arabs across the region challenged the Saudi hegemony over Arab affairs. As such, Saudi Arabia created their own news network, Al-Arabiya, to limit the effects of Qatar's media presence and project its own power over the region. The launch of Al-Arabiya, however, had a much different outcome than intended. The two networks began a public rivalry that escalated to the point that "Qatar and Saudi Arabia reached an off-air rapprochement" to end the feud (Khatib 2013). While both parties temporarily settled their disputes, the easing of tensions had an indirect consequence. The event "[painted] an image of Qatar as almost on par with Saudi Arabia in terms of influence and importance" (Khatib 2013). A few decades ago, Qatar was a small backwater nation that had only achieved independence until the late 20th Century. Now, Qatar can compete and match the influence of a longer-established regional power. As the network burnishes Qatar's "alternative" brand, Al-Jazeera also aids Qatar's efforts to mediate conflicts and project soft-power throughout the region. In the first few decades of its operation, Al-Jazeera's coverage of Arab conflicts created the image of objectivity that would further contribute to Qatar's branding as an impartial negotiator. In the case of 2008 Lebanese Crisis, Al-Jazeera's perceived close ties to the Qatari state helped secure an agreement between both parties to reach a political settlement, mitigating a civil war. The "goodwill" coverage of the Israeli-led "massacre" in the 2006 Lebanon War built Al-Jazeera's credibility with its Lebanese audience (Kamrava 2011). The Lebanese president credited Al-Jazeera's "very important role" in the peace process (Kamrava 2011). Al-Jazeera's "goodwill" coverage, combined with Qatar's past non-interference in Lebanese affairs, helped reinforce Qatar's image as an "honest broker," leading to successful mediation by Qatari diplomats (Kamrava 2011). And, with each successful mediation, other Arab nations looked to Qatar for leadership as opposed to Saudi Arabia. Qatar's mediation strategy, however, has been abandoned in favor of a more activist foreign policy.

The Arab Spring & Qatar's Foreign Policy

Qatar's efforts to exercise influence in the Arab Spring have had lasting consequences with its relationship with regional powers and the world-at-large. The Arab Spring began with the revolutions in Egypt and Tunisia. Qatar was "initially hesitant in declaring...position[s] against the incumbent regimes." (Khatib 2013). Qatar's original response to the revolutions was to adhere to the status quo. Yet, the revolutions did not go away, and Qatari opinion leaders noticed. As it became more likely that the revolutions would topple the incumbent regimes, the "coverage of Al-Jazeera... changed" (Khatib 2013). Al-Jazeera dropped its "objective" programming to show footage of the Tahir Square protests and gave air time to "fiery pro-revolution commentaries," effectively becoming the forum of the "voice of the [Arab Spring] revolution" (Mahmoud 2013). Due to Al-Jazeera's coverage and its close ties to the Qatari royal family, Qatar's government was able to change direction and realign itself with the Arab Spring. Saudi Arabia, did not realize that the status quo was changing. When the revolutions first started, the kingdom called for "'stability'... rather than revolution" (Khatib 2013). As new democracies emerged in Egypt and Tunisia, Saudi Arabia found itself on the outside, especially with the success of the Islamist Muslim Brotherhood in Egypt's first free elections. Qatar, on the other hand, was able to "maintain [a] crucial yet cautious step ahead of Saudi Arabia," solidifying the emirate's position as a "political maverick" and a diplomatic power in the region (Khatib 2013). Despite Qatar striking a foreign policy path independent of Saudi ambitions, the small emirate has not found itself completely independent of Saudi power.

A turn in the course of the Arab Spring transformed Qatar's new activist foreign policy from an advantage to a weakness as other Arab countries responded to Qatar's regional ambitions. Qatar's support for Islamist parties in the Arab Spring proved to backfire. The Muslim Brotherhood, which received diplomatic and financial support from

Qatar, "could not manage the transition to democracy in Egypt" (Kabalan 2018). As such, Egypt's nascent democracy soon collapsed as the military stepped in to take over the government. Qatar found itself on the outside in post-revolutionary Egypt as the military opposed Qatar's support for the Muslim Brotherhood. Qatar's ties to the Muslim Brotherhood, also, reopened the conflict with Saudi Arabia, who has long seen the Islamist group as a threat to their security. In 2014, Saudi Arabia mobilized other Gulf monarchies in an attempt to threaten Qatar with a blockade "unless it cut ties with the Muslim Brotherhood [and] closed Al-Jazeera" (Elbakyan 2015). The Saudis were unable to achieve such a blockade due to protestations from US President Obama, but, under the Trump administration, Saudi Arabia was able to blockade Qatar (Kabalan 2015).

The demands the Saudis have made of Qatar reflects the changed nature of Qatar's stature in the Middle East. At independence, Qatar was in a fragile position. The new nation had very little contact with the outside world. Sharing a single land-locked border with Saudi Arabia, Qatar's prospects were reliant on good relations with its much-larger neighbor. The introduction of Al-Jazeera and mediation politics has changed the power dynamics between the two nations. Al-Jazeera's unique relationship of trust with its viewers because its programming reflects the opinions of the Arabic people. Al-Jazeera's relationship with its viewers makes it invaluable to Qatar. With each successful mediation effort, Qatar is able to buy goodwill with the Arab population of the Middle East. Through Al-Jazeera, Qatar is able to promote its mediation politics to a regional and global audience. In doing so, Qatar takes on the role traditionally reserved for larger actors. Instead of relying on Egypt or Saudi Arabia, the people of the Middle East look towards Qatar for leadership in the peace-making process. And, in doing so, Qatar has displaced Saudi Arabia as the leader in Middle Eastern politics. Through its use of mediation as a national brand, Qatar is no longer a Saudi vassal, relying on the kingdom for security and economic

development. Instead, Qatar is a regional power in its own right. Qatar shows that size does not always relegate a state into obscurity. Rather, a creative use

of national branding can shift a nation's power within the international system.

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Temple in Kathmandu, Nepal

Lilianna Flores



Eifel Tower, Paris, France

Hamid Shirwany

South Korea's Demographics & National Security: How the Asian Tiger Grew its Teeth

Seongjoon Hwang

South Korea's incredibly low fertility levels frequently inspire alarmist headlines such as "South Korea's Most Dangerous Enemy: Demographics" and "Could South Korea's Low Birth Rate Really Mean Extinction?" ([Larmer, 2018](#); [NBC News, 2014](#)) But what does a closer look at the demographic situation actually reveal? Starting in the 1940s, South Korea underwent a rapid demographic transition, and is now experiencing "lowest-low fertility," a mature age structure, and increasing migration. The decline in fertility rate can be attributed to economic development, family planning, and other cultural factors. Additionally, economic and educational policies by the government allowed it to take advantage of the demographic dividend, resulting in astonishing economic growth. Sex-selective abortion peaked in the mid-1990s, then decreased due to changing cultural preferences and restrictive legislation. In conjunction with low fertility rates, high life expectancy is aging the population quickly, particularly in rural areas; due to a lacking social security system, many elderly live in poverty. As the economy developed, infant and under-five mortality decreased and Korea switched from a country of emigration to one of immigration, mostly temporary low-skilled workers.

These demographic changes have several implications for national security. Postwar Korea's decreasing fertility facilitated economic development and military strengthening; today's lowest-low fertility levels are decreasing military manpower but increasing the role of advanced technology, efficient organization, and the U.S.-

Korea alliance within military security. Rapid population aging and the growing yet inadequate welfare system is causing widespread elderly poverty, crowding out defense spending. As for immigration, the surge of foreign labor is benefiting the economy but keeping out domestic workers, causing discontent against the regime.

Fertility Trends and Implications

South Korea has one of the lowest fertility rates in the world—its 2018 TFR was 1.1, well below the East Asian average of 1.7 ([Population Reference Bureau, 2018](#)). However, just a couple decades ago, South Korea was experiencing a population explosion. Throughout Korea's liberation from Japan (1945) and the Korean War (1950-1953), fertility was high. Although it decreased slightly during the war, the postwar 1955-1960 period saw a baby boom that brought fertility to a peak of 6.33, and the population grew by 2.9% annually ([Kwon, 2003](#); [United Nations Population Division, 2017](#)). As a result, the population increased by 54% from 16.1 million in 1945 to 24.9 million in 1960 ([Kwon, 2003](#)).

Since the 1960s, the government's population policies, as well as other factors, brought fertility rates down. In response to record-setting fertility levels, Korea's first five-year economic plan, adopted in 1962, included a nationwide family planning program. Slogans such as "have few children and bring them up well" were later replaced by "even two are too many" and "a well-bred girl surpasses 10 boys," reflecting growing pressure to reduce fertility and the societal preference for boys

(Madsen, 2012, p. 90). Instead of relying on reproductive healthcare clinics, which were seldom visited, the government trained field workers to visit households and encourage family planning education and contraceptive use. With some time, family planning became widely accepted voluntarily as Koreans saw the benefits of having less children (Population Reference Bureau, 2012). Other factors contributed to the declining fertility rate as well—

from 1960-2000, the proportion of the urban population jumped from 28% to 79.7%, while life expectancy increased from 55.3 years to 75.5 (Kwon, 2003). The government's policies, rapid urbanization, and growing life expectancies all caused a rapid drop in TFR, which went below replacement level in the 1985-1990 period (United Nations Population Division, 2017).

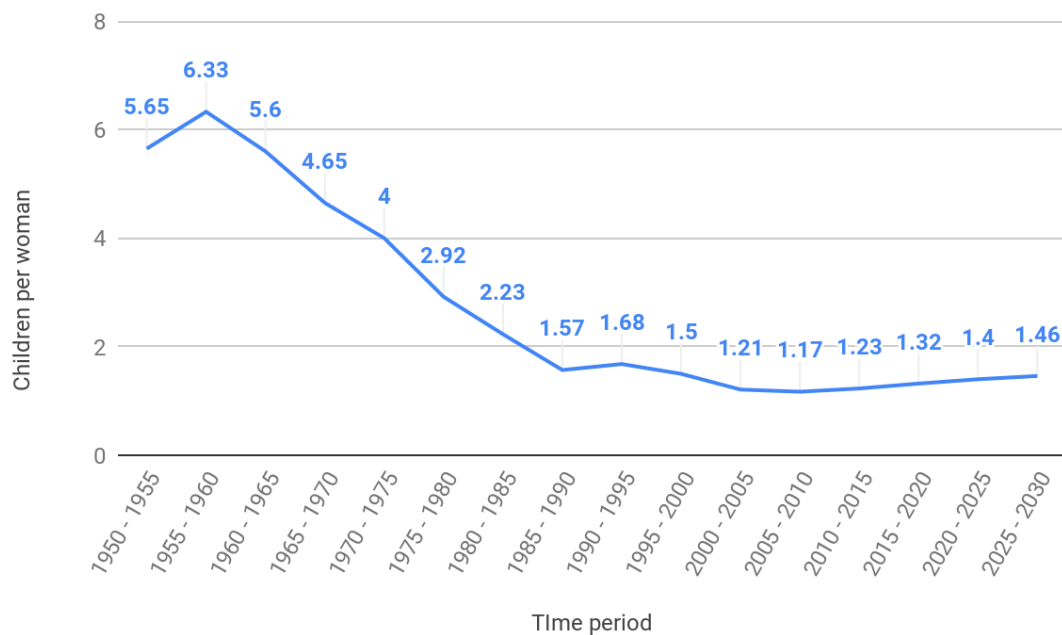


Figure 1. TFR in South Korea from 1950 to 2030, graph by author (United Nations Population Division, 2017).

During the demographic transition, the government implemented educational and economic policies that helped Korea reap the demographic dividend, which refers to the economic benefits from having a mostly working-age population. In the 1950s, only about half of school-age children received education, but this changed in the 1960s with higher investment in education and a focus on “production-oriented” curricula to make citizens economically productive. Attendance also gradually increased and by 1990, 97% of school-age children attended school. Also, smaller student cohorts and

higher disposable incomes helped improve the quality of education. Economically, the government diversified its fishing and farming reliant economy to include manufacturing and shipping, as well as steel, iron, and chemical industries. The government initiated rural infrastructure projects to address unemployment, and took advantage of manufacturing opportunities created by the Vietnam War. Also, throughout 1965 to 1991, Korea’s “[increased] the capital (investment) for workers at more than eight percent per year” (Population Reference Bureau, 2012). The education and work

related policies were incredibly beneficial, as more than half of Korea's population was of working age (between 16 and 65), and its dependency ratio was low (B. J. Kim & Torres-Gil, 2008). This led to unprecedented economic growth—Korea's GDP per capita (in constant 2010 USD) rose from \$944.29 in 1960, to \$8,464.93 in 1990, and \$26,152.03 in 2017 (World Bank, 2018a).

After TFR dropped below replacement level in 1985-1990, it continued to decline to “lowest-low fertility” (a TFR lower than 1.3) due to expanded opportunities for women, gender inequality, and other cultural factors (Goldstein, Sobotka, & Jasilioniene, 2009). Women are attaining more education than before, and more are pursuing careers. Because companies may pressure women to quit once they become mothers, women are pushing back marriage and childbearing in fear of losing their careers. In other words, the opportunity cost of having a child can include not just lost income, but the job itself. As childbearing out of wedlock is socially unacceptable, women spending less of their reproductive years in marriage directly results in lower fertility. As a countermeasure, the government started providing employment-protected maternity leave of 8.5 weeks in 1988, but it was a paltry length compared to the OECD average of 39.4 weeks (Yoon, 2017). Maternity leave has since been lengthened (and paternity leave introduced), but the unequal division of housework and child rearing still disadvantage women in the workforce.

In addition, high unemployment and demanding working conditions create a difficult environment for marriage and childbearing, and pronatalist government efforts have not succeeded. Sixty-nine percent of Koreans between 25 and 34 have a college degree, making the cohort the most educated among their OECD peers and resulting in a 10.5% unemployment rate (Y. Park, 2017; The Economist, 2018). Even those with jobs struggle to provide for their families, due to lasting effects of the 1997 Asian Financial Crisis and 2008 Great Recession. This financial instability makes

childbearing unaffordable, which has been estimated to cost about \$253,000 from birth through four years of college for Koreans (Westley, Choe, & Retherford, 2010). In response, the government enacted pronatalist policies in 2005, offering “child care subsidies, tax breaks, and expanded public education programs” (Madsen, 2012, p. 92). Continuing its pronatalist stance, the government adopted an updated set of policies in 2016, aiming to raise TFR to 1.5 by 2020 (Yoo & Sobotka, 2018). So far, none of these policies have been effective. Although overall population size has not declined yet due to population momentum, it is projected to decline between 2035 and 2040 (United Nations Population Division, 2017).

Rapid economic development allowed Korea to increase its defense budget, although recently its growth rate has fallen short of projections due to economic downturn, but with consistent net growth, military security has increased. The battlefield conflicts of the Korean War stopped in 1953 with an armistice, but the war is still technically ongoing due to the lack of a peace treaty. As a result, North Korea poses a continuing threat to South Korea, making a strong military necessary for deterrence and defense. Since 1960, Korea's defense budget has increased exponentially from \$275 million in 1960, \$10.11 billion in 1990, all the way to \$39.15 billion in 2017—each of these upswings represented 3,668% and 387% increases, respectively (World Bank, 2018c). Although these growth rates are extraordinary, recently they have fallen behind the government's optimistic projections due to economic downturn. Based on an assumption that GDP would grow around 7.1% per year from 2006 to 2020, the military budget was slated to grow by 9.9% from 2006 to 2015. However, since the 2008 global financial crisis, Korean GDP growth has remained below 3%, apart from 2010, which saw a growth of 5.9% (World Bank, 2018b). Even with abnormally high growth in 2010, the defense budget grew by only 3.6% (Sheen, 2013). Although the defense budget may not have

met government projections, it has been consistently growing. This higher budget enabled Korea to increase training and living standards for its soldiers while procuring domestic and foreign arms and technology, increasing military security.

Low fertility rates have caused manpower reductions in recent defense reforms. In 2005, the Roh administration implemented the Defense Reform 2020 plan (DR 2020), aiming for a smaller and more technologically advanced military. Expecting smaller military-age cohorts, the military aimed to reduce total troop size by 23% from 650,000 in 2005 to 500,000 in 2020. Over the same period, reserve troops were also planned to be reduced from about 3 million to 1.5 million. In conjunction with overall reductions, DR 2020 aimed to increase volunteer careerists to about 40% of the military, reducing the proportion of conscripts. Female participation was also slated to increase, with female officers and noncommissioned officers planned to increase by 1.3% and 1.2%, respectively ([Chun, 2017](#)).

To make up for the loss of military manpower, the South Korean military has invested in improving its technological superiority, organization, and alliance with the US. DR 2020 brought consolidated army headquarters, increased training and equipment for reserve soldiers, as well as high-tech machinery for the navy and air force. DR 307, introduced in 2011, focused further on technological superiority, including “anti-submarine warfare (ASW) capabilities, counter-artillery measures, capabilities to combat North Korean weapons of mass destruction (WMD), and acquiring next generation capabilities like the fighter program (F-X) and early deployment of the global hawk” ([Chun, 2017](#)). Additionally, South Korea has strengthened its longstanding military alliance with the United States, even with President Trump’s alarmist comments. Started during the Korean War, the ROK-US alliance has continued with US troop presence and joint military exercises. Today, the United States Forces Korea is comprised of 32,000

US troops operating from about 90 bases. Camp Humphreys—the largest US military base overseas and one of the most recently constructed in Korea —proves Korea’s commitment to the alliance: the 3,500 acre base costed \$11 billion, 90% of which was paid by the Korean government ([E. T. Kim, 2018](#)). Joint military exercises have also made up a large part of the alliance relationship. For example, Ulchi Freedom Guardian is among the largest war games in the world, and in 2017 it ran for 11 days, incorporating 17,500 American troops and 50,000 Korean troops ([Schmitt, 2018](#)). Although Ulchi Freedom Guardian, among with other major joint exercises, was cancelled in 2018 in anticipation of the US-North Korea summit, smaller joint exercises have continued.

In the future, low fertility will directly hurt Korea’s economy and result in a smaller working-age population, decreasing military funding and recruitment. From 2000 to 2050, Korea’s working-age population will decrease by 10 million people, or 28% ([Sheen, 2013](#)). This will cause the labor shortage to grow from 630,000 people in 2015 to 1,520,000 people in 2020. As Korea grew economically through human capital, this shortage is projected to cause a drop in economic growth rates—from 4.56% in the 2000s to 2.91% in the 2030s, and 0.74% in the 2040s ([B. J. Kim & Torres-Gil, 2008](#)). A smaller workforce and lower economic growth will result in a smaller tax base, resulting in lower military funding. The military, expecting a shortage in manpower, estimates an increase in spending by 621 trillion won (\$445 billion) until 2030.

On the other hand, lower fertility and its effects may incentivize technology development and alliance strengthening in the future, improving Korea’s military security. As technology will be needed to augment lost manpower, robots and other machines may automate soldier’s jobs such as surveillance, patrol, or even active combat ([Sciubba, 2011](#)). Increased investment and attention in Korea’s already strong high-tech sectors may lead to

unprecedented innovation, which would bolster its military and economic security. With a smaller and less funded military, Korea may be forced to cooperate more closely with its democratic allies, such as Japan and the U.S. Given Japan's rapid aging, shared concerns over North Korea and China, and growing economic interdependence, Korea could foster a closer military relationship. Despite historic animosities, the Japan-Korea security relationship has deepened from the mid-1990s through officer student exchanges, joint search-and-rescue exercises, and airspace management agreements (Manosevitz, 2003). Continued economic interdependence and confidence-building measures will make the Japanese-Korean alliance stronger. With moderately high fertility, the U.S. is the only developed country in the world to grow

significantly in population, which is projected to increase by 20% from 310 million to 374 million between 2010 to 2030 (Sheen, 2013). If a state's power is considered to be a function of its political capacity, productivity, and population size, a stronger, more formalized U.S.-Korea alliance would increase in power over time (Sciubba, 2012). Considering American concerns over China's rise in power, this is likely to happen and would augment any losses that Korea would sustain from manpower or budget reductions. If needed, the U.S. could even increase its troop presence and financial support in Korea. Even if it does not, however, increased U.S. dominance globally would provide additional deterrence for Korea.

Mortality Trends and Implications

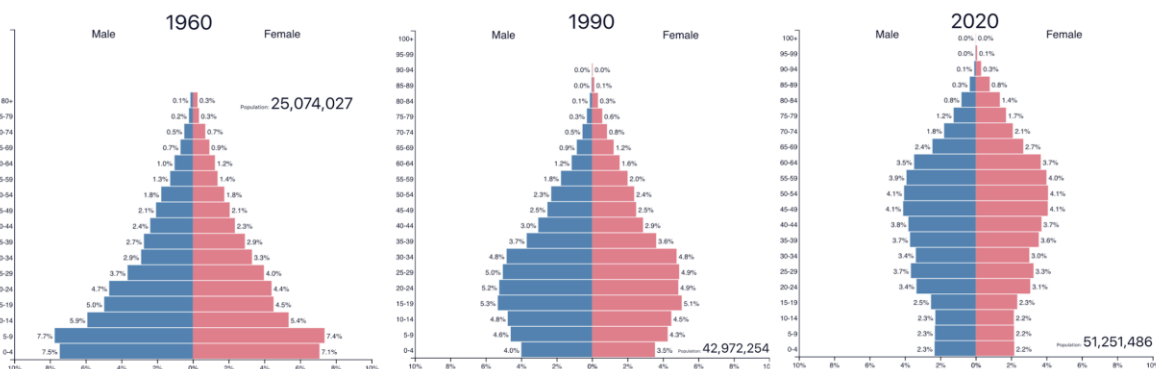


Figure 2. Population pyramids of South Korea from 1960 to 2020, adapted from “South Korea” on PopulationPyramid.net/Republic of Korea.

Combined with low fertility, South Korea's rising life expectancy is causing its population to age at an unprecedented pace, especially in rural areas. Its life expectancy at birth in 2018 is 79 for males and 85 for females, a marked increase from 65.4 in 1983 (Kye, Arenas, Teruel, & Rubalcava, 2014; Population Reference Bureau, 2018). The elderly population—65 years or older—make up 14% of today's population, making it a highly aged society

(Kwon, 2003; Population Reference Bureau, 2018). Provincial data show that highly urbanized provinces—especially Gyeonggi, Seoul, and Incheon, which make up the Seoul Capital Area—have lower proportions of the country's elderly population than rural areas, including Gyeongbuk, Jeonnam, and Gangwon (Statistics Korea, 2017). The elderly are projected to grow to 35% of the population in 2050 (Population Reference Bureau,

2018). As a result, Korea's elderly dependency ratio, or the number of working-age adults (20-64 years) for every elderly person, will decrease from 6.3 in 2009 to 1.5 in 2050 (Kye et al., 2014). One important thing to note is that Korea's average effective age of retirement is 72.9 for men and 73.1 for women, higher than any other OECD country in 2012-2017 (OECD, 2017). This is also higher than 65, the usual age used to classify the elderly, which makes the Korean dependency ratio a slight overstatement. However, as many of the working elderly are working to supplement their meager wages, a late retirement age can still result in high social security dependence.

Korea's rapid aging has outpaced the development of social security systems, creating structural security issues through widespread elderly poverty. Due to increasing demand for social safety nets, Korea started its national healthcare and public pension system in 1989, but it remains relatively lacking—in 2006, Korea used just 6% of its GDP for social security spending while the OECD average totaled 20% (Sheen, 2013). With the average size of Korean families decreasing from 5.7 persons to 2.5 from 1960 to 2017, and one-person households increasing from 4.2% to 28.6% from 1970 to 2017, many Korean families are abstaining from taking care of their elderly (Kwon, 2003; McCurry, 2017; Statistics Korea, 2017). As a result, 48.6% of Korea's elderly were living in relative poverty “(defined as earning 50% or less of median household income) in 2011, the highest level among the 34 OECD countries” (McCurry, 2017). As a result, many of Korea's elderly are forced to return to work after retirement, and about 25% of them live alone. Increased hardship and seclusion has led to “a dramatic rise in elderly suicide, from 34 per 100,000 people in 2000 to 72 in 2010” (McCurry, 2017). This represents a significant structural security issue, as the elderly are being systematically ignored through lacking familial and government intervention. Without adequate support from younger generations and social security, the elderly

experience increased personal and financial insecurity.

Continually increasing social security spending has crowded out military spending; fortunately, this has not drastically affected military security yet, but the recently elected Moon administration may change that. Since the early 2000s, both progressive and conservative administrations have aggressively increased social security spending with the goal of reaching 20% of GDP, the OECD average, by 2030. Although the social security and defense budgets were almost equal in 1990, the former grew by an average of 10% per year, while the latter grew by just 1% per year. Social security grew from 2.8% of GDP in 1990 to 10% in 2010, while defense decreased from 3.5% to 2.6%—in 2010, social security spending totaled five times the amount of defense spending (Sheen, 2013). As seen, increased prioritization of welfare has not decreased the absolute amount of defense spending, although it has decreased defense spending relative to GDP and social security—in fact, it has been continually growing. However, it is evident that social security is crowding out defense spending, and may do so at a higher rate in the near future. In 2017, former human rights lawyer Moon Jae-in won the presidential election by promising expanded social security through higher basic pensions, opening more jobs for the elderly, subsidizing dementia treatment, and widely available government housing for the elderly (McCurry, 2017). This will likely lead to higher social security spending, causing additional pressure to decrease defense spending for future government budgets.

Migration Trends and Implications

When Korea was liberated from Japanese rule in 1945, many who had fled the country returned, increasing the population growth rate. About 2.5 million people returned, most of them repatriates from Japan and Manchuria and North Korean refugees. This, combined with the high fertility rate, elevated the population growth rate to

6.1% during 1945 to 1949 (Kwon, 2003). Many of the migrants settled in cities, causing a disproportionately higher urban growth rate.

From the 1960s through the 1980s, numerous Koreans left for more developed countries, many of them sending remittances or settling there permanently. When industrialization began in the 1960s, the Korean government sent low-skilled laborers to countries like the U.S., Germany, and Japan for remittance, which added up to \$375 million in 1973. Similarly, Korean construction companies and personnel made up 7% of the construction market during the 1970 and 1980s Middle Eastern construction boom (K. Park, 2014). In 2015, numerous Korean citizens were living abroad, the most notable being the US (1.12 million migrants), Japan (522,000), China (187,000), and Canada (144,000) (Y. Park, 2017).

Over the past couple of decades, Korea has shifted from a country of emigration to one of labor immigration, mostly from China and Southeast Asian nations. With high educational attainment and wages becoming the norm, its economy began facing labor shortages in labor-intensive, low-skill jobs. The government amended immigration policy in the early 1990s to fill this demand, and since then foreign residents in Korea have increased exponentially, but they made up just 2.9% (1.48 million people) of the total population in 2017 (Statistics Korea, 2017). According to Statistics Korea's "2017 Population and Housing Census", China accounted for 49% (730,000 people) of foreign residents, Vietnam 10% (148,000 people), Thailand 6.3% (93,200 people), and other countries the remaining 35.7%. Interestingly, the Census data breaks down the Chinese population in Korea not just between mainland Chinese (People's Republic of China, 14.3% of foreign residents) and Taiwanese (Republic of China, 1.1%), but also the Korean-Chinese, which made up 33.6% of foreign residents—the largest ethnic/national group by far.

Most labor migration involves temporary permits for labor-intensive, low-skill jobs in small- and medium-sized businesses; although this filled labor shortages, its continual growth crowded out some domestic female and elderly workers. In 2003, the Employment Permit System (EPS) created the E-9 and H-2 visas for guest workers, and these visa holders accounted for 90% of the foreign labor force in 2015. Workers under EPS are eligible for employment in companies with less than 300 employees in "manufacturing, agriculture and livestock, fisheries, construction, and service sectors" (Y. Park, 2017). Certain sectors, especially construction, have shown growing dependence on foreign low-skill labor, and may be putting domestic workers at a disadvantage; similarly, women and the elderly been discriminated against in favor of EPS workers. In response, in 2009 the government attempted to charge a fee for companies employing foreign workers, but was met with fierce opposition. The number of foreigners is expected to rise to two million by 2020 and four million by 2050, making up 9.2% of the total population, meaning that this problem may continue to grow in magnitude (K. Park, 2014).

Another aspect of immigration in Korea involves international marriages, where Korean men—mostly rural farmers "who had been squeezed out of the marriage market"—marry brides from China or Southeast Asia (Lee, 2018, p. 315). This occurs due to young rural women—who are less likely to be tied down by farming obligations—out-migrating to cities, starting in the 1960s. International marriages gained popularity in the late 1980s, and reached a peak in 2005, when foreign-born women accounted for 10% of Korea's marriages. Increased international marriage results in a sudden increase in TFR when plotting it by levels of education, as most of these international brides come from underprivileged socioeconomic backgrounds (Lee, 2018).

Growing rates of immigration have caused social and political tensions, as Koreans' cultural

anxieties may outweigh the perceived economic need for foreign labor; this has put the government in the middle of strongly contested issues, detracting from regime security. Korean national identity is based on its “pure blood” ideology, where ethnic and cultural homogeneity has been the norm for the past 5000 years. As a result, immigrants experience prejudice and racism in many aspects of life. Domestic, mixed-ethnicity Koreans are a prime example. Although they come from one of the more celebrated forms of immigration, international marriages, only one-third of their working-age population is employed and only 6.5% of them own homes (B. J. Kim & Torres-Gil, 2008). The arrival of a couple hundred Yemenis seeking asylum in 2015 sparked huge protests, alleging that domestic, “real” citizens deserved to be prioritized by the government (Choe, 2018). The crowding out of domestic workers—especially women and the elderly—due to the expansion of low-skilled foreign labor visas have also caused increasing tensions. The issue is proving to be contentious, with the government having difficulty appeasing both marginalized workers and businesses (Y. Park, 2017). As demonstrated, real and perceived increases in government openness to immigration may cause regime insecurity through mass protests or discontent.

Conclusion

In the past couple of decades, South Korea has gone through a rapid demographic transition. Today, it has one of the lowest fertility rates in the world, a highly aged population, and increasing levels of immigration. Its low fertility rate was caused by economic development, family planning policies, and difficulties in female workforce participation, and remains low despite government efforts. This demographic dividend yielded significant economic development and military strengthening. Low fertility is also causing lower military manpower and higher reliance on technology, organization, and the U.S.-Korea alliance. Traditional son preference led to a spike in

sex-selective abortion in the mid-1990s, but promptly decreased with diminishing son preference and outlawing of such practices. A rising life expectancy is causing the population to age quickly, with social security systems unable to keep up. This has caused elderly poverty and crowding out the military budgets. Additionally, infant and under-five mortality decreased markedly. Over the past couple decades, emigration gave way to immigration as the economy developed, with low-skilled temporary foreign workers helping fill labor shortages but also keeping domestic workers out. Conclusively, Korea’s low fertility, rapid aging, and growing immigration has had mixed effects on its military, regime, and structural security, and the future is not much clearer. Although demography has been on Korea’s side so far, only time will tell if it will continue to be.

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UNSCR 1325 and 1820: The Gendered Reality of PKOs in Haiti and Beyond

Dylan Craddock

In the short documentary *Haiti By Force* highlights the personal testimonies of multiple Haitian women who have been forcibly raped by UN peacekeeping soldiers that were sent to protect them. Some were as young as 15 when they were impregnated and left to care for children, they neither wanted nor had the ability to take care of. This tragedy is an immense failure on the part of the United Nations, an organization founded on protecting the world's citizens from conflict and violence. At the same time, the UN has been hailed for recent developments regarding women's rights in relation to peacekeeping and peacebuilding processes. In particular, UN Security Council Resolution 1325 passed in 2000 was celebrated as: "an historic milestone since it marked the first time that the UN Security Council dealt specifically with gender issues and women's experiences in 'conflict' and 'post-conflict' situations and their contribution to conflict resolution and prevention" (Pratt and Richter-Devroe). Eight years later, Resolution 1820 supplemented the work of 1325, again calling for gender-inclusivity in peacekeeping missions while also defining further how women are affected by and part of state conflict. While UNSCR 1325 and 1820 represent a success in a greater ideological battle for gender equality by defining the importance of women in conflict resolution, their combined success remains a largely symbolic step forward rather than something that has concretely impacted the well-being of women in conflict zones and nations undertaking the process of re-building. Looking specifically at Haiti, the negative gendered effects of peacekeeping and conflict resolution were hardly limited by new gender-specific initiatives enacted by UN forces. Overall, the UN continues to lack enforcement power to truly control both conflict within the country and the peacekeepers themselves.

Given this, the many structural challenges inherent in UN peacekeeping missions and the refusal to address abuses caused by the peacekeeping process must be recognized should places like Haiti experience more success in gender mainstreaming, gender equality, and reduced gender specific violence.

The paper will discuss the peacekeeping process as a whole and then move to discuss UNSCR 1325 with the greatest scrutiny because it is the first of many "women's resolutions," though 1820 will also be mentioned as it directly ties sexual violence to criminal acts of war and calls for gender mainstreaming in peacekeeping operations (Guide to UN Security Council Resolutions on Women, Peace, and Security). The first half will be dedicated to examining these resolutions, their content, and will look at their implications for women the world round. This section will explicitly use feminist critiques and analysis through the international relations lens to demonstrate the larger implications of the current UN framework for peacekeeping operations. In the second half, the case of Haiti will be more closely examined to reveal the failure of both the UN and the world to fully implement women in peacekeeping roles and admit that peacekeeping, as a practice, has largely been a failure. These such failures, which are allowing for both abuses from UN forces and conflict at home to further damage the lives of the Haitian people and—on a larger scale—people around the world in conflict and post-conflict zones, will also be analyzed.

The United Nations prides itself in being the foremost non-state actor working to rid the world of conflict. The main process by which the UN works to end conflict is its Peacekeeping Operations or

PKOs. PKOs first started in 1948 and have grown exponentially since their creation, with 56 out of the total 68 missions taking place after 1988 and sixteen currently active today (History of Peacekeeping). The structure of each mission varies as they are formed with country-specific issues and goals in mind, but they generally involve a multi-national coalition of trained soldiers acting as a mediating force between governments, the people, and combative forces. According to the UN website, three principles guide PKOs: consent of parties, impartiality, and non-use of force except in self-defense and defense of the mandate (which is determined by the Security Council on a case-by-case basis) (What is Peacekeeping?). Knowing this, one begins to see how missions are formed and structured, and what exactly the UN does when it deploys a new PKO. This process became of particular international importance in the 1990s, as the end of the Cold War created a new emphasis on international peacekeeping efforts and “witnessed a steady proliferation of peace processes and peace agreements aimed at ending violent social conflict” (Bell and O’Rourke). As such, more nuanced approaches to the PKOs started to emerge in the Post-Cold War world—particularly in relation to women in conflict.

After years of lobbying from feminist and women’s organizations, UNSCR 1325 was adopted on October 31, 2000, and was the first major piece of UN legislation to address the essential nature of women in peacekeeping and peacebuilding operations (Pratt and Richter-Devroe). In specific language from the resolution, the Security Council “stresses the importance of women’s equal and full participation as active agents in the prevention and resolution of conflicts, peace-building and peacekeeping” (UNSCR 1325). Before this, conflict resolution and peacekeeping processes were left to military and political elite—namely men (The Story of Resolution 1325). The UN’s website dedicated to women’s issues, UN Women, describes 1325 as the first step to finally recognize the right of women to

play a role in peace processes and admits their presence is essential to effective conflict resolution. 1325 was voted in unanimously by the Security Council and celebrated by many feminist groups the world round (The Story of Resolution 1325).

Essentially, UNSCR 1325 can be divided into three main categories regarding female involvement in the peace process: increasing representation for women at all levels of decision-making both locally and within UN forces, adoption of a gender perspective when implementing peace, and guaranteed protection for women’s rights and issues as well as protection from sexual violence (Tryggstad). While there have been other follow-up resolutions to further address the above points, one of the most significant is UNSCR 1820, passed in 2008. 1820 is important in that sexual violence was fully defined as a tactic of war, and the Security Council called for “gender-mainstreaming” in peacekeeping operations to prevent the disproportionate and negative effects of conflict and post-conflict nation building on women (Guide to UN Security Council Resolutions on Women, Peace, and Security). Gender mainstreaming was first defined in 1997, as the “process of assessing the implications for women and men of any planned action, including legislation, policies or programmes, in all areas at all levels” with the ultimate goal being gender equality (GENDER MAINSTREAMING). This language can be found in other resolutions, but what sets these two apart from previous gender-mainstreaming efforts is the direct language linking women’s issues to the issues of conflict, national security, and peacekeeping—a significant development in the span of peacekeeping operations to date in 2000 (Tryggstad).

As according to journalist Marianna Karakoulaki, previous to the passing of these resolutions peacekeeping and conflict resolution were almost entirely left up to men, as was the “reconciliation process” post-conflict (Karakoulaki). Conflict and violence impact men and women in different ways, making it incredibly necessary for

security forces to look through a gendered lens when it comes to conflict resolution (Tryggestad). Moreover, 1325 and 1820 link women's involvement with sustained and lasting peace, giving women's issues more international legitimacy in the security community. "With the adoption of [UNSCR 1325], a formal barrier was broken in terms of acknowledging a link between the promotion of women's rights and international peace and security...such an acknowledgement is necessary for new norms to emerge" (Tryggestad). Data backs up these assertions as well: according to UN Women, when women are included in the peace agreements, there is a 20% increase in probability that a peace agreement will last at least 2 years (Women at the Forefront of Peacekeeping). While this may not seem like a significant amount of time, for regions facing incessant conflict two years is a distinct move towards increased stability. In this way, these resolutions are significant in the push for female involvement both within UN peacekeeping missions and for women in countries where UN forces are present—and the data available tends to back up the ideology within the resolutions. UNSCR 1325 and 1820 are also significant in that active efforts have been made to see their full implementation in various nations. The adoption of National Action Plans (NAPs) is been a huge step in a positive direction for female involvement in peace and security in times of conflict and post-conflict. As of April 2017, 63 nations have created NAPs, including world leaders such as the United States, Germany, and Canada (Member States). This demonstrates a commitment by both secure and insecure countries alike to champion women's rights, perhaps demonstrating a legitimate shift in the norms of peacekeeping, peacebuilding, and national security ideas.

However, the specifics of the resolution leave much to be desired when it comes to actual implementation and success of National Action Plans and gender mainstreaming. The language of the resolutions, according to some feminist scholars,

perpetuates stereotypical notions of femininity and masculinity—where men are aggressors and women are "peacemakers" as well as perpetual victims (Pratt and Richter-Devroe). When looking at UNSCR 1325, an emphasis is put on protection of women and girls as it relates to security, hinting at a lack of agency on their part. Not only this, the language completely denies the victimhood of men and boys, again essentializing women as victims and/or inherently peaceful while also taking away their political agency (Bell and O-Rourke). In addition, some scholars would argue UNSCR 1325 calls for women to be peacemakers, but does nothing to critique the militarism and violence the peacekeeping process has perpetuated across the world: "omitting a major feminist aim" against anti-militarism (Pratt and Richter-Devroe). "Discursive speech norms at the UN, however, later curtailed feminist critiques of militarization and militarized masculinities in conflict, instead requiring a unique focus on the positive, 'utopian' representation of women as 'bridge-builders' and 'peace-makers'" (Pratt and Richter-Devroe). Peacekeeping operations, given their militarized view of conflict resolution and insistence on individual countries training and sending soldiers, creates a naturally masculine process that goes against many of the goals lined out by feminist IR theorists (Simic). In this way, The UN essentially uses the stereotypical notions of women and femininity to justify a flawed, militarized, and damaging process—continuing a failure to admit flaws in the system.

Most significantly, much of the success remains symbolic, with minimal progress being marked as "huge strides" and much work left to be done both within conflict regions and UN forces. In a case study done by the International Civil Society Action Network, six countries with conflict-situations were analyzed on how key actors ensured active roles for women in the peacekeeping process and gender sensitivity in the peace accord process (Anderlini). The findings, while spread across countries, found 1325 had essentially failed to meet

all the high hopes it had originally brought about. To cite just a few of their sixteen conclusions, researchers found “Many governments, UN personnel, and CSOs are still unaware of, or misunderstand, UNSCR 1325; donors are not practicing what they preach; national action planning is delaying actual action; and women peace activists face profound security threats but receive no protection” (Anderlini). Considering these findings contradict the very nature of UNSCR 1325 and what it was supposed to guarantee, it is evident that much more work needs to be done in the name of female integration and protection of women’s rights in conflict and post-conflict situations. Moreover, gender mainstreaming at the policy level has all but failed, with the amount of women directly serving in Peacekeeping operations as soldiers never reaching above 2% of all forces (Simic). It is also significant to note that the UN peacekeeping forces, while supposedly encouraging gender mainstreaming and protecting women who are disproportionately affected by conflict, often perpetuate the opposite. According to Human Rights Watch, eight cases of rape and gang rape perpetrated by UN officials were documented in the Central African Republic in January 2016 alone (UN: Stop Sexual Abuse by Peacekeepers). For an organization that claims to protect the world’s citizens from conflict and harm, this is an egregious failure. Blame cannot just be placed on inactivity of local governments; the UN and its failure to fully backup its resolutions is a significant setback in the name of peacebuilding and gender equality.

Now to look at the direct implications of these resolutions (and their failures) in Haiti, it is important to first acknowledge why UN forces have been stationed there since 2004. The United Nations Stabilization Mission in Haiti (MINUSTAH) was established after a series of other peacekeeping and building operations that had done little to help the political situations or economic conditions of the country. This particular mission was launched with the direct task of “establishing the rule of law” and

was still active when this paper was written in the Spring of 2017 (MINUSTAH Facts and Figures). Haiti, as a nation, has faced countless public health problems, major natural disasters, and chronic governmental failure—causing the MINUSTAH’s thirteen yearlong stay on the small island nation. However, thirteen years has done little to change or improve the situation within the country. Haiti represents an epic failure on the part of the UN and troop-contributing countries to see the damaging effects of the peacekeeping process as is. In relation to 1325 and 1820, MINUSTAH demonstrates a lack of action in solving the issue of violence against women, even perpetuating the horrendous conditions Haitian women and girls currently face. Sexual abuse and exploitation by peacekeepers in Haiti is rampant, under-reported, and under-prosecuted. Looking at the real stories as told in *Haiti by Force* to begin, it is evident that 1325 and 1820 have been lost in Haiti, where any abuse from peacekeepers is entirely denied by both MINUSTAH forces and higher ups in the UN itself.

The UN has taken little to action to deal with the sexual abuse and exploitation caused by Peacekeepers in Haiti, despite claiming it enforces UNSCR 1325 and 1820. This is caused by a mixture of circumstances, ranging from the UN’s lack of resources dedicated to solving this issue to its outright refusal to see any problem at all. For the women themselves, there is an overwhelming sense of fear: that if they report their rapes, they will face even more violence, and if they search for the children’s fathers it will be fruitless and time consuming. One of the most striking stories in the documentary is that of Ovila, who was raped and abandoned by MINUSTAH soldiers when she was 17, forcing her to leave school and care for the child that came as a result of the rape. While holding her young son, Ovila shares her thoughts: “Sometimes I take him and leave the house at five in the morning. I go walking downtown and I just keeping walking and walking. Sometimes I have this idea of just giving him away to a random person on the streets”

(*Haiti by Force* 3:07). Ovilá's story is tragic—watching the film you can see and hear the fear, anger, and sadness she feels so clearly in both her actions and words—and it unfortunately mirrors almost all other stories *Fault Lines* covers. A defining characteristic of all but one case is that none of these women had reported their rapes. The general in charge, Ajax Porto Pinheiro, claims that all abuses have stopped—“you don't see case like this in the last three years” (*Haiti by Force* 15:46)—but the ages of the children in the documentary demonstrate how this claim is completely incorrect. The women in this documentary, and likely many other Haitian women, feel reporting these crimes is useless because the UN and its personnel, like Porto Pinheiro, deny its existence or make it incredibly difficult to prosecute accused soldiers. The one woman who had reported her rape, Georgina, was 15 when she was raped by a Sri Lankan peacekeeper. MINUSTAH claims to have only found out two years later, and at that point could not gather physical evidence, causing her case to be ruled “unsubstantiated” (*Haiti by Force* 21:22). Despite all evidence to the contrary, the UN still put blame on Georgina and did nothing to find her abuser. This seems to be the case for all women who attempt to report their assaults, again demonstrating how the UN does little to change PKOs and, essentially, allows egregious abuse to continue.

Outside of abuse by PKOs, the UN has an unfortunate track record of ignoring rape and sexual violence as a war tactic, allowing it to continue both worldwide and within PKOs. There seems to be a history of underreporting in the case of rape and sexual exploitation in times of conflict, one that extends beyond just Haiti. The lack of concrete data on rape and exploitation comes from a lack of accountability on the world's part to address sexual violence claims and failing to interpret these acts as one of the many facets of conflict. Truth Commissions established by the UN to accurately report the abuses that took place in times of conflict

often ignore or understate the issue of sexual violence. As scholar David Tombs relates:

...prior to the conflict in the former Yugoslavia (1992-95), which highlighted the political use of rape as a war crime, the [Truth and Reconciliation Commission] reports did not include abuses against women and sexual violence as a distinctive and essential part of the quest for truth. Rape and other sexual violence during conflicts were usually either unacknowledged or presented as a marginal or secondary issue. (Tombs 57)

The conflict in former Yugoslavia is very recent in the span of history, demonstrating how the issue of sexual violence during times of conflict has only quite recently come under UN attention and scrutiny. UNSCR 1820 which “stresses that sexual violence, when used or commissioned as a tactic of war in order to deliberately target civilians or as a part of a widespread or systematic attack against civilian populations, can significantly exacerbate situations of armed conflict and may impede the restoration of international peace and security,” (UNSCR 1820) was only passed in 2008, again showing how the issue of rape and sexual violence has been low on the list of priorities in the UN—despite claims to the contrary. As such, data is difficult to come by when investigating recent world conflict, though recently “António Guterres, UN secretary general, confirmed that there has been a total of 145 cases of sexual assault and abuse across all UN peace missions in 2016 - up from 99 reported cases in 2015” (*Haiti by Force*). Considering how many women came forward with their stories yet only one had reported their rape in Haiti, it seems likely this number falls drastically short of the truth.

Despite this, the UN has hired staff and created commissions to directly deal with the issue of sexual abuse both in PKOs and conflict. In an attempt to address the rape and sexual abuse allegations in Haiti and elsewhere, the UN appointed

Jane Holl Lute to serve as the Special Coordinator on improving the United Nations response to sexual exploitation and abuse. Her language in the documentary is especially problematic, claiming there is “no one place in the world where women are safe” and she stumbles around in answering questions about concrete, real successes the UN has seen in preventing abuse by peacekeeping forces (*Haiti by Force* 19:13). Her appointment very much lines up with the provisions of 1325, and represents an effort to gender-mainstream at higher-levels within the UN itself, but remains problematic for actual women on the ground. Again, “more women” does not solve the issue of sexual violence in PKOs seen in Haiti. In scholar Olivera Simic’s work, 1325 and 1820 are seen as a way for the UN to essentially use the presence of women in their missions or as higher ups to divert responsibility of solving the abuse problem onto these “token” women. The UN sees the very presence of women as leaders as the answer to the problem, rather than addressing the underlying issues of state’s not prosecuting their peacekeeping forces once they return home. Women’s presence is very much important for representation, but does not stop the militarism inherent in PKOs nor prevent men from raping women—this is stopped by real, tangible consequences for the people who perpetrate these crimes.

The natural militarism of the current PKO system inherently combats feminist aims, as can be seen in Haiti from sexual abuse to an insistence on military personnel being able to bring about peace: there are 4,971 uniformed personnel in Haiti currently, with up to 2,370 military personnel and up to 2,601 police (MINUSTAH Facts and Figures). Militarism and peace, as some scholars like Sandra Whitworth would argue, are naturally combative: “One of the main reasons peacekeeping *is* a contradiction is because of its almost exclusive reliance on soldiers. Soldiers are not born, they are made; and part of what goes into the making of a soldier is a celebration and reinforcement of some of

the most aggressive, and most insecure, elements of masculinity” (Whitworth 3). While this is admittedly a bold claim, it does point to peacekeeping’s reliance on military norms, pointing again to the difficulty of fully including women in the peacekeeping and making process without either essentializing them or ignoring their efforts. In the case of Jane Holl Lute, while she has directly called for improving access to care for victims and that the UN admit responsibility for this failure (Unitednations), the pattern of militarism as seen above has yet to truly be redirected.

Not only this, the greatest structural problem inhibiting both the UN and Haitian women to seek justice is the antiquated immunity principle, which allows peacekeepers to essentially live above the law during PKOs: “A primary impediment to holding UN peacekeepers accountable is that they are granted jurisdictional immunity from the host State by a plethora of international and bi-lateral treaties, internal UN documents and other legal or quasi-legal instruments” (Burke). While the immunity is not clearly defined by one UN principle or piece of legislation (but multiple different documents), the original thinking behind it was to allow the UN to create missions without fear that the host country would completely reject the peacemaking process. While this is beneficial in that the UN can create missions more easily, it entirely fails to take into account the dangerous implications of immunity itself. The direct definition of the immunity principle, and who it applies to, is as such: “All members of UN peacekeeping operations, irrespective of their categorization, under the UN Model SOFA, are fully immune from all forms of legal process in respect of words spoken or written and acts committed by them in their *official* capacity” (Burke). This means all people involved in a mission, both higher-ups and soldiers, are completely immune in the host country. The idea of immunity, in this way, directly contradicts the UN’s so-called “zero-tolerance policy” on sexual assault and violence, which was officially created in 2003

(three years after 1325) (Special Measures for Protection). It is important to note in the case of Haiti, the issue of sexual exploitation is being addressed in real time as this is written, thus immunity remains completely intact and has inhibited the women seen in *Haiti by Force* to prosecute any of their abusers. In noting this, we reveal yet another UN failure to address larger structural problems that have led to sexual violence and exploitation of women in PKO areas.

All of this being said, the UN has attempted to enact the principles of UNSCR 1325 and 1820 in Haiti—albeit to minimal success. In 2004, Nadine Puechguirbal was hired as the head of the Gender Unit for MINUSTAH, and met challenges at almost every corner (Shteir). In this interview, she describes how she connected UN forces to local women's groups to assess the situation on the ground more accurately, in addition to working on gender mainstreaming within MINUSTAH itself. However, she found her work to be subsidiary in the larger peacekeeping apparatus, with much of her job being focused on explaining gender mainstreaming to her colleagues and to fighting for resources:

First of all, I had to get settled and assert my authority as Head of the Gender Unit. Since no plan had been made for the allocation of space for the Gender Unit, I had to fight to secure a desk, a computer, and a vehicle for the Unit. I also had to spend time to explain to my UN colleagues the role and function of the Gender Unit in a peacekeeping mission. (Shteir)

She faced severe budget cuts, making it impossible to expand the Gender Unit and inhibiting success even further. She had to “reduce her expectations” and work with the meager resources provided by the UN (Shteir). Even more, the United Nations website makes no reference to officers or leadership that work explicitly in gender-mainstreaming for this mission, meaning MINUSTAH's Gender Unit is relegated to a much smaller, more auxiliary role

rather than the forefront of decision-making (MINUSTAH Leadership). Unfortunately, Ms. Puechguirbal's situation demonstrates how the UN's commitment to gender mainstreaming in PKOs remains largely symbolic, and that Gender Units are perpetually underfunded, under-utilized, and misunderstood.

For many gender mainstreaming efforts, including those in Haiti, the importance of Gender Units is misunderstood, and only when men take up the gender discourse does it seem to be taken seriously. To draw again from Ms. Puechguirbal's interview, she relates how only when she hired a local Haitian man to teach gender mainstreaming did she find some success:

I hired a male Haitian Program Officer, Ernst Luceus. Mr. Luceus' role is to help build up confidence on gender issues within the male-dominated MINUSTAH Mission, and with outside partners. Mr. Luceus is now in charge of delivering all gender-related training to MINUSTAH military, CivPol and the Haitian National Police (HNP). As a matter of interest, a CivPol officer congratulated him at the end of an induction course, remarking that he was glad to hear a "real man" deliver such a course instead of a woman; according to the officer, it gave the course more credibility. (Shteir)

While it is beneficial to have a man such as Mr. Luceus involved as he understands the culture of Haiti and may work closely with officers, the very fact that him being a male gave him more credibility over trained female peacekeepers hints at the sexism inherent in PKOs as a whole. Cultural sensitivity and involving local leaders is vital to peacemaking process, and the fact the gender unit did involve local people is significant. However, despite grand claims of equality and gender mainstreaming within PKOs, actual gender advisors like Nadine Puechguirbal find their work minimalized and

delegitimized in the militarized process in place today.

Looking at the case of Haiti, it is difficult to approve of current UN procedures and policies when it comes to the peacekeeping process—even the UN seems to realize the flawed nature of the process. The UN Security Council voted unanimously to end the 13-year MINUSTAH mission April of 2017, citing increased stability, the expensive nature of peacekeeping, and a need for new UN goals in Haiti as reasons for termination (Al Jazeera). Not only this, multiple other PKOs are being downsized and removed all together in Africa, where most are stationed today (Al Jazeera). While this appears to be a good result of the peacekeeping system, it seems to suggest that in reality the UN is scaling back missions as they have all but failed to fully complete their mandates and help people in conflict resolution. Considering the United States has threatened to pull funding if the process remains unchanged (a significant threat as the US is the largest contributor, funding 28.5% of the total peacekeeping budget), it seems now is the time to change the PKO system (Al Jazeera). If the situation in Haiti is a hallmark of most missions, then the system is clearly broken. The militarized view of conflict resolution has failed not only the women of Haiti but also the country as a whole, and many other PKOs across the world have seen the same dismal amount of success.

The time for change in the peacekeeping system has been a long time coming, with even officials in the UN admitting to its overall failure in preventing global conflict and keeping the world's citizens safe. In 2017, the new secretary general of the UN, António Guterres, directly addressed the issue of abuse by peacekeepers and plans to remove both the immunity principle and create incentives for troop-sending countries to hold their troops accountable while they are abroad working for the UN. "The new head of the world body is proposing to stop paying countries that fail to investigate claims against their soldiers 'in a timely manner,'

and to put that money instead into a trust fund to assist survivors" (Sengupta). Mr. Guterres also plans implement sexual abuse and exploitation training, making sure that all UN personnel understand what sexual violence is (in all its forms) as well as the UN zero-tolerance policy. Other reforms include implementing more restrictions on troops like an alcohol-ban (Sengupta). While this is a great step forward, there is still much to be done should the UN truly uphold the so-called "women's resolutions" 1325, 1820, and others.

The militarized view of peace inherent in the PKO system is naturally combative with the feminist and inclusive aims of UNSCR 1325 and 1820. While they make important connections between women and conflict, their implementation (or lack thereof) demonstrates the failure of the UN to meet the original goals it had set forth in gender mainstreaming conflict resolution. Gender-advising needs to be at the forefront of the PKO apparatus, so to connect the UN with local organizations and groups working to improve the human rights situations of their people, rather than relying on soldiers and military force to maintain peace. In doing so, the UN forces give Haitians and others a concrete role in building their own nation back up, rather than acting as a quasi-imperialistic armed force. As seen in Haiti with the hiring of Mr. Luceus, involving local leaders into the PKO world fosters a connection between international and local forces, allowing the nation where peacekeeping is occurring to be more fully involved in the process of rebuilding the state. A more nuanced approach to peacekeeping may promote peacebuilding and stability, rather than the UN blue helmets acting as a military in charge of keeping local citizens in line. Given the resources of the UN, it seems pertinent that it begins to shift its focus from outdated forms of conflict resolution and truly implement the more nuanced, inclusive, and gendered understandings seen in 1325 and 1820. In doing so, Haitian women (and by extension the world's women) may feel safer and be legitimately protected by the forces sent

to create lasting peace—rather than victimized and exploited by the very people sent to help them.

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Angkor Wat in Cambodia

Seongjoon Hwang



Karola Glacier Tibetan Autonomous Region, China

Benjamin Tracy

Police et sécurité: A Multiple Streams Approach to French Anti-Terrorism Legislation

India Nikotich

After terror attacks on Paris in January and early November 2015 left over one hundred and fifty civilians dead, the French government instituted a state-of-emergency, and thus launched a national debate over the state's cherished values of "liberté, égalité, fraternité." In years since, surrounding European states have faced similar attacks attributed to terror organizations associated with the Islamic State: Brussels, Munich, London, Stockholm, and Manchester, just to name a few. Although each government took varying actions in response, the French government instituted policy change in the form of Bill 587, an anti-terrorism measure in early October 2017. Some French politicians, including Interior Minister Gérard Collomb and members of the President's party, La République En Marche (LREM), argued that the six state-of-emergency extensions were necessary to protect the state as well as put pressure on legislators to pass the bill. International voices (such as the Human Rights Watch and certain United Nations rapporteurs) along with French leftists claim that the emergency powers and bill threaten civil liberties, while the French right criticize the bill as being too weak to handle mounting terror threats. This paper argues that the multiple streams approach (MSA) is a useful tool for explaining the proposal and passage of France's anti-terrorism bill, Bill 587, of early October 2017. The MSA helps to identify several variables influencing the adoption of the bill, including (1) the election of President Macron as a policy window, (2) terrorist attacks as exogenous shocks to the French political and social systems, (3) anti-Muslim sentiment as part of the national mood, and (4) the strong French police state as evidence of technical feasibility.

In France, and Europe at large, civil society is increasingly exerting pressure on legislators to enact laws that secure borders and counter terrorist mobilization. The origins of state-of-emergency powers (*état d'urgence*) in France come from the Algerian War for independence in the mid 1950s and 1960s, when the Islamic National Liberation Front fought against the French colonial empire and the state-of-emergency was used to help quell the unrest. Now, more than fifty years after Algerian independence, nine-percent of France identifies as Muslim (CIA, 2017), and this minority faces daily difficulties of assimilation and persecution. The *état d'urgence* instated in 2015 by then-President Hollande was a reaction to the jihadist-claimed terror attacks at Charlie Hebdo and the Bataclan. Due to subsequent attacks in Nice and Marseilles and an impending election season in November 2016, the French government extended emergency powers six additional times, an unprecedented political move intended to protect rallies and other campaign events. The state-of-emergency has thus been a semi-permanent fixture of the French state for two years, allowing the authorities to censor the press and perform searches and seizures without judicial oversight. In May of 2017, Emmanuel Macron was inaugurated, and he immediately began the push for his anti-terror bill, which permanently legalized some emergency powers while ending the official *état d'urgence*. According to Bill 587, *Police et sécurité: sécurité intérieure et lutte contre le terrorisme*,¹ the French police (*police nationale*, overseen by the Interior Ministry) are granted the permanent power to search homes and arrest outside the normal judicial process, as well as close places

¹ "Police and security: internal security and the fight against terrorism."

of worship and restrict large gatherings. The state-of-emergency expires in November 1 of 2017, but the abilities delineated in Bill 587 will be in effect until a review process in 2020.

Reactions in France range from supportive to highly concerned. Though the Paris Mosque, the seminal voice of Islam in France and supporter of Macron in the election, denounced violent fundamentalism and fanaticism in 1995, peripheral territories (specifically the suburbs, where Muslims by and large live) still face difficulties integrating with Christian, Western society (Viorst, 1996). These French-Muslim enclaves face increased surveillance, alienation, and persecution as a result of Bill 587. According to Human Rights Watch (2017), the *police nationale* has conducted 3,200 raids since November 2015, and its report also cites almost two hundred cases of abusive house arrests and mosque raids, via the Collective Against Islamophobia. Within the political elite, the bill also faces scrutiny from all sides. The conservative party, Les Républicains (LR), and hard left party, La France Insoumise (LFI), argued against Bill 587 on different ideological grounds, but even members of Macron's LREM fought against its passage. For example, even LREM parliament member Alain Tourret indicated that it sought to "curb spaces of freedom" (France24, 2017).

The multiple streams approach is analyzed on a systemic level and relies upon conditions of ambiguity, and the threat of terrorism as well as French policy-making in general do operate in this enigmatic way. The MSA also stresses context in terms of operationalization: it is crucial to analyze the French state as it functions in 2017, a semi-presidential republic. However, it is not recommended to consider Kingdon's MSA without first seeing how its predecessor, the Garbage Can Model of Cohen, March, and Olsen could be applied. While it is true that choice has "highly interactive qualities," Kingdon expands upon this with the concept of the three indicators within the organized anarchy (Zahariadis, 2014, p. 27). Fluid

participation, indicator one, can be found in the French example through legislative turnover in the Parliament, Senate, and National Assembly. Officials serve for five or six year terms depending on their position, and legislative decisions require quorums of over four hundred members. The second indicator, problematic preferences, is visible in the response to the anti-terror bill: within both the legislative body and the broader political community, many actors (like PM Tourret) took stances inconsistent with their party identification. Also, because modern terrorism is defined by borderlessness and non-traditional warfare strategies, policy entrepreneurs and government officials in France have little historical trial-and-error procedures to refer to. This, coupled with the size of the state, makes their technology unclear. Another piece of the MSA's causal logic is time, and France's lack of legislative action (despite two years of extended *état d'urgence*) indicates that the bill itself "is as significant as – or even less so than – the process and timing" of the decision (Zahariadis, 2014, p. 28).

Three primary assumptions that must be considered when applying MSA to this (or any) case. One, that systemic processing is parallel. Two, that policymakers operate under significant time constraints. In the case of Bill 587, the value acceptability of a continual state-of-emergency in public consciousness placed much pressure on its timely removal. The continuing attacks across Europe also added to the national mood that something different needed to be done, and soon. Internally, policymakers faced pressure to optimize while facing bounded rationality – many issues also required attention, and information on the subject could be scarce. Rising anti-Muslim sentiment in France also contributed to a national mood of mistrust and thus the necessity for stronger state action targeting places of worship. Xenophobia and populism, Boukhars argues, explains "the feeling that France is under Muslim siege" (2009, p. 299). The third assumption is that the streams (problem,

politics, and policy) flowing through the system are independent.

As a whole, the MSA well-explains Macron's anti-terror bill (but some criticisms on this point will be discussed later). Through political manipulation, policy entrepreneurs crafted a policy that could affect only what they could observe and control within their borders – places of worship like mosques, and private homes. By utilizing the image of the mosque and large gatherings as symbols for the origins of violent extremism, policymakers cut through the ambiguity to streamline the decision-making process and present one strategic dimension (of a much more layered issue).

Now that the causal logic and assumptions of the MSA have been laid out, the rest of this paper will be devoted to the main structure of the framework, the three streams (problem, politics, and policy), policy windows, and policy entrepreneurs and how they can explain Bill 587. The problem stream first aids in what James Anderson refers to as “problem identification,” as it uses shocks, indicators, and feedback to delineate policy needs. The obvious exogenous shock was the wave of terror attacks claimed by the Islamic State across France, Europe, and the rest of the world in recent decades, but the shooting at the Bataclan in 2015 was the true focusing event, as it manifested in the original state-of-emergency. The only internal feedback available for use in policymaking was the outcry against the unending *état d'urgence*. Because France had not yet attempted to implement a similar policy to Bill 587, policy entrepreneurs could only rely on data from surrounding states who had recently embarked on counter-terror legislation. Though MSA is an internal determinants model, there is no denying that other Western democratic efforts at anti-terror legislation have impacted French policymaking (Wahlström & de Moor, 2017). Germany in particular is a French neighbor who attempted to stop homegrown terrorist attacks with policy change. Both France and Germany increased surveillance as a homeland security measure and in 2016 German

legislators issued passport restrictions and updated their Criminal Code Provisions, stepping in line with UNSC resolutions (Gesley, 2015). These measures and others like it within a common policy network encouraged France on the path to crafting a bill that would provide solutions to the issue identified in the problem stream.

National mood (public opinions), administrative turnover (elections and incumbencies), and pressure group campaigns constitute the politics stream of MSA. In the case of the French bill, the national mood was calling for the repeal of and a replacement for the state-of-emergency. Another key component of the politics stream here is the role of the media in the secular state, and the ability and effectiveness of news outlets to communicate to the public. The Intelligence Act of July 2015, instituted in direct response to the Bataclan attack, curtailed the source-confidentiality rights of French journalists (Vedel, et al., 2016). This action added to the public's general frustration with the government response to terrorism, making it even more difficult for policymakers to discern which policy would satiate the public and while also helping to “solve the problem” of terrorism. Administrative turnover in France also contributed to the passage of the anti-terror bill: the election of current President Emmanuel Macron in May 2017 opened up a policy window through which liberal democratic political energy could be channeled into the Parliament, Senate, and National Assembly. On the campaign trail, Macron suggested that an anti-terror bill like this one replace the state-of-emergency, lauding the effort as a “first priority” for his administration (DW News, 2017). The fleeting nature of policy windows in general indicates that President Macron needed to ensure that attention was allocated to the issue quickly.

The emotional aspect of these issues highlights another facet of the MSA. Within the framework, decision-making is non-rational. As mentioned previously, worship in mosques and

large-scale gatherings (like protests) became the de facto symbols of internal threat and fear. Images of the scenes at terrorist attacks in France and abroad – with blaring sirens of ambulances, medical and police personnel, yellow tape, and broken glass – stood in sharp contrast, as symbols of death and ruin (as the consequences of extremism). These terror attacks revealed state vulnerability and weakness, allowing for greater expression of nationalist sentiment. The state-of-emergency was a drastic and risky measure that, in some ways, intended to “reverse perceived losses in prestige or credibility” as a result of the attacks (Zahariadis 2014, p. 39). Zahariadis argues that, under circumstances of crisis, high-level policy entrepreneurs engage in manipulative ‘salami tactics’ that “cut” the process of adopting risky legislation into more easily digestible stages. Applied to France, the state-of-emergency could be interpreted as the first of these steps, with Bill 587 being the ultimate, albeit riskier, goal of the government. The public, primed with the emotional symbols detailed above, was then more than ready to accept “confrontational” counter-terror policy that it might not have otherwise (2014, p. 36).

This matching up of problems to solutions is a key role for policy entrepreneurs and an important causal mechanism for MSA. However, in line with MSA and Garbage Can Model logic, Macron and French legislators were not the sole actors shaping decision-making in this context. Pressure group campaigns and interest groups were also at the vanguard, intensifying the counter-terrorism discourse. The irony is that the conditions of the state of emergency vested the *police nationale* with “increased repressive capacities for governing dissent,” which discouraged protest against the anti-terror law (Wahlström & de Moor, 2017, p. 57). Despite these limits on dissent, peaceful or otherwise, French civil society continued to appear in public spaces to voice grievances. Wahlström and de Moor use the example of French climate protests during COP21 in 2015, after the state-of-emergency, to show how authorities slowly escalated their

policing powers, putting climate activists under house arrest, raiding headquarters, and “forbidding any group of more than two individuals to express a political message in a public space” (Wahlström & de Moor, 2017, p. 66). Anti-terror rhetoric, however, tended to be expressed in quieter means: rather than public protest, it translated into public value acceptability for counter-terror measures, or, in less benign circumstances, anti-Muslim sentiment. The bill came to be in this context, where the French state already had comprehensive authority “powers to sift through high-risk populations within the territory to identify ‘enemies within’” (Wahlström & de Moor, 2017, p. 74).

Finally, from the policy stream, the final product – the policy itself – arose. The idea that solutions are widely available and waiting to be applied for a problem is by far the weakest component of the MSA in this context. There was a clear lack of viable ideas on how to address the issue of terrorism and the state-of-emergency, leaving policy entrepreneurs with few choices: continue to extend the *état d’urgence*, or end the *état d’urgence* and replace it with legislation that followed international norms of security and democracy. Within a democratic system, policy-makers are constrained by the dual need for order and for civil liberties, and anti-terror legislation heavily privileges the former while often curtailing the latter. This put French legislators in a tricky political situation – supporting either side could have consequences for elections and subvert their own opinions. This is not to say that legislators were ignoring the problem: there is evidence to support that many policy entrepreneurs were thinking deeply about how to combat terrorism domestically. The policy community surrounding this issue in France consisted mostly of legislators, intelligence agencies, the police bureaucracy itself, and academics, most of whom had a vested interest in security issues. In the end, removing the state-of-emergency achieved adequate value acceptability of the bill, and the

strength of the French police state supplied technical feasibility (or at least the appearance of it).

The multiple streams approach is a useful tool for understanding the emergency and passage of the French anti-terror bill, but its limits are also clear. First of all, policy entrepreneurs as defined by Zahariadis (2014) are difficult to find. He argues that “the more successful entrepreneurs are those who have greater access to policymakers,” but the policy entrepreneurs involved in the passage of the bill *are* the policymakers that come from within the government itself: politicians like Macron and Interior Minister Collomb (2014, p. 35). Because of the MSA’s assumption of inherent chaos and dynamism in the process, it is difficult to discern which individuals or groups (institutes, academics, or corporate actors) may have been directly responsible for the bill’s central ideas. In addition to this, many sources are in French, and this paper relies heavily upon news articles due to the hot-off-the-press nature of the issue. Since more academic sources on the subject have not yet been written, it would be more instructive to look at the concept of entrepreneurship, which focuses more on institutional arrangements, as suggested by Zahariadis (2014, p. 43), to help explain the source and origins of the bill. The French bureaucracy may be a better place to search for information, rather than looking to single individuals that are simply figureheads for a far greater system. Another pitfall of the MSA is the idea that the streams are independent, which would insist that solutions and problems arise separately. In the French case, the lines blur: the state-of-emergency status of France was both a solution to the terrorist issue and a political problem that Bill 587 solved.

When French legislators in the National Assembly passed Bill 587 by a margin of 415 to 127 in late October 2017, they were participating in the policy process during a fleeting and crucial policy window. Major policy entrepreneurs, like President Macron, had been seeking a replacement for the state-of-emergency, which faced significant

criticism for being undemocratic and encroaching on civil liberties. By analyzing the new bill through the lens of the multiple streams approach, it is clear that many factors contributed to its passing that existed within distinct policymaking streams. But, to quote William Brown, “theories are only ever starting points for analysis.” Though the amount of attention focused on terror attacks in Europe continually opens up opportunities for the confluence of the three streams, it also serves to amplify the broader discourse surrounding issues of global security and democracy in an increasingly modernizing world.

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Rabat, Morocco

Hamid Shirwany



Lake Baikal, Russia

Emily Perry

Cracking the Glass Border: The Refugee Status Determination Process for Women Fleeing Gender-Based Persecution

Lillie Stephens

I. Introduction

Rodi Alvarado was abused by her husband for over ten years in Guatemala. Over the course of those ten years, she was raped, brutally beaten until she was unconscious, and kicked in the spine in an attempt to force her to abort her child (Berger 666). When Ms. Alvarado escaped to Guatemala City, her husband followed her there and forced her to return home with him. She reported the abuse and called the police for help multiple times, and twice they did not even show up. When Ms. Alvarado appeared in court for proceedings against her husband, the presiding judge told her that he did not interfere in “domestic disputes.” Ms. Alvarado fled to the United States seeking asylum from the abuse. When she left Guatemala, her husband threatened to kill her if he ever saw her again. In 1999, a U.S. immigration court granted Ms. Alvarado asylum (Mullally 471). Then, knowing that if Ms. Alvarado returned to Guatemala she would have almost certainly been beaten, raped, and ultimately killed, the U.S. Board of Immigration Appeals (BIA) overturned the decision.

Although the BIA recognized that Ms. Alvarado had suffered “heinous abuse” at the hands of her husband, they refused to acknowledge the cultural and political context in Guatemala that allowed this abuse to rise to the level of persecution. Instead, they claimed that this was a private issue. In 2001, the Attorney General vacated the decision in Ms. Alvarado’s case, which became known as *Matter of R-A-*. After a long and protracted legal battle that stretched over ten years, Ms. Alvarado was finally granted asylum by the United States in 2009 (Mullally 470).

II. Theoretical Perspectives

Research Question and Rationale

As shown by *Matter of R-A-* and many other asylum cases, the United States’ refugee status determination (RSD) process has shown inconsistency toward asylum seekers claiming gender-based persecution. Ms. Alvarado’s case has become one of the most important cases in this area of American jurisprudence. However, this precedent has not led the U.S. RSD process to become any more consistent or effective than it was when Ms. Alvarado first applied for asylum. On the other hand, Canada is recognized as a global leader for its successful incorporation of gender into its RSD process. Canada’s energetic approach has led to higher consistency its adjudication of gender-based asylum claims.

In this paper, I ask the following question: What factors affect the refugee status determination (RSD) process for women seeking asylum for gender-based persecution? I will compare key legal developments in Canada and the United States. I will focus my chronological scope on the period between 1991 and 2002 because this decade saw important developments in this area of law, both in policy and in practice. My goal is to explain the variation in consistency in the RSD process for claims of gender-based persecution in Canada and the United States.

Literature Review

Theoretical approaches to migration studies are broad and varied across different disciplines. Brettell and Hollifield note that scholarly interest in migration studies ebbs and flows along with periods of migration (2015). They quote Douglas Massey in describing the central issue in migration studies:

Social scientists do not approach the study of immigration from a shared paradigm, but from a variety of competing theoretical viewpoints fragmented across disciplines, regions, and ideologies. As a result, research on the subject tends to be narrow, often inefficient, and characterized by duplication, miscommunication, reinvention, and bickering about fundamentals and terminology (Massey, qtd. in Brettell and Hollifield 2015).

For instance, economists usually study migration from a rationalist approach, weighing the economic costs and benefits of different migration policies (Martin 2015). An economic rationalist approach fails to explain how gender-based persecution motivates migration. Legal scholars, on the other hand, study migration by analyzing the development of case law (Aleinikoff et al. 2003). However, by focusing only on jurisprudence and legal rights, this approach leaves out important considerations of cultural and social factors from the conversation. Political scientists use a variety of differing theoretical approaches: some favor a rational choice approach (Freeman 1995) while others lean on institutionalist, historical, or constructivist ideas (Hollifield 1992).

There is one distinct division that has emerged in migration studies: some scholars take a “macro” level approach by focusing their studies on broader structural factors and policy decisions (Portes 1997) while others focus on the “micro” level by analyzing the experiences of individual migrants (FitzGerald 2008). In my research, I will employ a combined approach that examines how larger structures influence individual interactions and asylum decisions.

Because the literature on migration studies can be widely varied and sometimes disjointed, I instead turn to literature in the gender and sexuality studies discipline that focuses on immigration. Gender and sexuality only emerged on the international stage as important aspects of asylum

law and norms as recently as the 1980s, so the scholarship on this topic is fairly new. In the 1980s, immigration from Central America to the United States was ramping up as civil wars and political unrest brought never-before-seen numbers of migrants across the border for protection (Musalo 2007). Women, in the context of this wave of migration and in general, experience unique forms of persecution by virtue of their gender. Scholars have noted that, because gender is not explicitly enumerated as one of the categories protected by the 1951 Convention on the Status of the Refugee and the 1967 Protocol (the foundations of modern asylum law), gender has been “neglected in the dominant interpretation” of this convention (Crawley 2018). Since the 1990s, however, scholars across multiple political science and sociological disciplines have agreed that gender influences the way asylum law is written, carried out, and experienced (Hamlin, Musalo, Zeigler, Stewart).

Before examining the role of gender in the RSD process specifically, it is helpful to examine the international institutions that have helped shape the development of Canada and the U.S.’s RSD processes. Unfortunately, the institutional structure of immigration law has been largely ignored in the dominant body of asylum scholarship, which has instead favored normative, historical, and legal analysis (Posner 2013). However, an institutionalist approach is helpful in understanding asylum law. For instance, scholars mark a turning point in asylum law when, in 1991, the Executive Committee of the United Nations High Commissioner on Refugees (UNHCR) issued guidelines on the treatment of gender-based asylum claims (Reimann 2009). Canada and the U.S. responded to this new international standard by publishing their own set of gender guidelines or considerations. Both international and domestic institutions are important when studying asylum law.

All branches of institutionalism agree on one essential tenant: institutions matter in international relations (Mackay et al. 2010). However, the

traditional institutionalist approach fails to properly explain the critical role that gender plays in the RSD process. Despite the presence of these gender guidelines, scholars continue to critique the U.S. for failing to enforce the ideas enumerated in the guidelines consistently in the adjudication phase of the RSD process (Musalo 2001, Zeigler and Stewart 2009). Simply analyzing domestic policy (such as the gender guidelines) alone is not sufficient to explain the variation in the RSD process (Hamlin 2014).

Several branches of new institutionalism are more helpful than traditional institutionalism in analyzing asylum law. The more contemporary branches, together known as new institutionalism, have expanded the definition of institutions to include not only formal institutions but also informal practices, conventions, and norms (Kenny 2007). Constructivist institutionalism or discursive institutionalism can be a helpful theory for examining gender in the RSD process because the majority of the literature on this topic takes the form of discursive analysis. Discursive institutionalism focuses on the influence of ideas and discourse on actors' behavior, preferences, and interests (Mackay et al. 2010). Although discursive institutionalism is rarely invoked explicitly in the literature on asylum and gender, scholars engage in this type of analysis when they examine the role of ideas about gender in the RSD process. Because discursive and feminist institutionalism are the branches of new institutionalism that are most applicable to the issue of gender-based asylum claims, I will be using these theories in my research.

Over the past twenty years, many scholars have begun to write about the confluence of institutionalism and feminist political science (Kenny, Waylen, Chappell). They point out how, despite the previous lack of interaction between these two fields, these two disciplines share several common traits: acknowledging that institutional processes are embedded in hidden norms, the inherent privileging of certain groups over others,

and the historicity of power relations (Kenny 2007). For instance, the notion of path dependency promoted by some institutionalist scholars can be useful for feminist political scientists who emphasize the historical nature of gender relations (Kenny 2007). The marriage of these two disciplines has resulted in feminist institutionalism. Feminist institutionalist scholars claim that political institutions, both formal and informal, are gendered (Kenny 2014). Unfortunately, I was not able to find research that ties feminist institutionalism to asylum or migration studies. I consider this a flaw in the literature on the RSD process, but my research will attempt to demonstrate how feminist institutionalism applies to the issue of gender-based asylum claims.

Feminist theory, specifically feminist legal theory, leads the literature on gender-based asylum claims. Salcido and Menjívar articulate a feminist theory that calls upon both cultural and structural factors to explain the gendered nature of the asylum process and the entire immigration process as a whole (2012). Despite the fact that the policies and procedures in place are technically gender neutral, gender ideologies continue to permeate the RSD process because the process itself is "inflected" with gendered meanings and enacted in gendered social structures (Salcido and Menjívar 2012). The standpoint theory approach recognizes the distinctive features of women's situations within a gender-stratified society by taking the "standpoint" of the marginalized. Throughout the 1980s and 1990s, however, standpoint theory was generally discredited in feminist literature (Hekman 1997). Despite its replacement with newer theories, I believe the standpoint theory is still valuable in the discussion of how the personal experiences of adjudicators in the RSD process influence asylum decisions. This theory argues that knowledge is perspectival from multiple standpoints, and I argue that this idea is applicable to the adjudication of asylum claims.

One problem in the feminist methodological approach to migration studies is the danger of

universalizing women's experiences or creating an "essentialized narrative of persecution," as Hinger describes it (2010). Recent work in feminist political science has shifted away from measuring gender as a variable to conceptualizing gender as a "practice" or "performance" (Kenny 2007). Oxford synthesizes and broadens the scope of the aforementioned research to draw connections between institutionalism and structure, several varied feminist theories, and the notion of a "national gender regime." Scholars such as Oxford cite feminist sociologist R.W. Connell and her definition of a gender regime as "the state of play of gender relations in a given institution" and his use of Antonio Gramsci's notion of hegemony. She draws on this definition to remind the reader that it is important to consider gender as a dynamic process that plays out in institutions in which different players interact (Oxford 2005). By viewing gender as an ongoing and dynamic practice, we can then start to see institutions in a more dynamic way (Connell 1987 and 2002). Therefore, as Kenny describes it, "political institutions embody a set of gendered power relations, incorporating both patriarchal and post-structuralist conceptions of power" (Kenny, 2007).

When discussing the ideological influences on the RSD process, it would be irresponsible to ignore the influence of race, ethnicity, and national origin on this topic and instead favor only a discussion of gender. Of course, gender is not the only factor that influences the RSD process. Rather, multiple factors intersect in influencing asylum decisions. One criticism Oxford levies of Connell is that her theories fail to address race and national origin in addition to gender (Oxford 2005). Classic scholars of intersectionality describe how various social hierarchies intersect (Crenshaw 1991, Lorde 1984). This scholarship can be used to understand how different identities and perceptions influence the asylum process. For instance, asylum seekers often struggle to convince adjudicators they deserve asylum because they must perform their gender, ethnicity, and overall identity in a way that fits into

the adjudicator's Western perceptions of what a refugee should look, sound, and act like (Shuman and Bohmer 2014).

The work of Judith Butler, who has been essential in expanding feminism to a more intersectional approach, can be applied to questions of asylum and migration because her work questions if there are hegemonic political conventions that legitimize and privilege some individuals over others based on their performed gender (Vasterling 2003). She incorporated post-structuralist and queer theory into the framework for gender (Butler 1990 and 1993). Echoing Connell's theory of "gender regime," Butler argues that individuals are constructed as male or female through repeated performances of discursive practices (Kenny 2007). Butler's theory can be applied to questions of asylum and migration because her work questions if there are hegemonic political conventions that legitimize and privilege some individuals over others based on their performed gender (Vasterling 2003). In line with this theory, I will argue that the RSD process tends to privilege the experiences of males over females.

In general, the literature on gender-based asylum promotes the importance of considering gender as well as race, ethnicity, and national origin as well as viewing RSD as a dynamic process. I have identified several new institutionalist theories that are helpful in analyzing how countries deal with gender-based asylum claims such as historical, discursive, and feminist institutionalism. Unfortunately, scholars have been slow to apply these theories to migration studies in general and studies of asylum specifically. The literature on gender-based asylum would greatly benefit from the incorporation of these new institutionalist theories into the literature.

The combined agency/structure approach I use in my research is derived from constructivism. Although the literature on gender in migration seldom invokes constructivism by name, the influences of this discipline are easy to trace

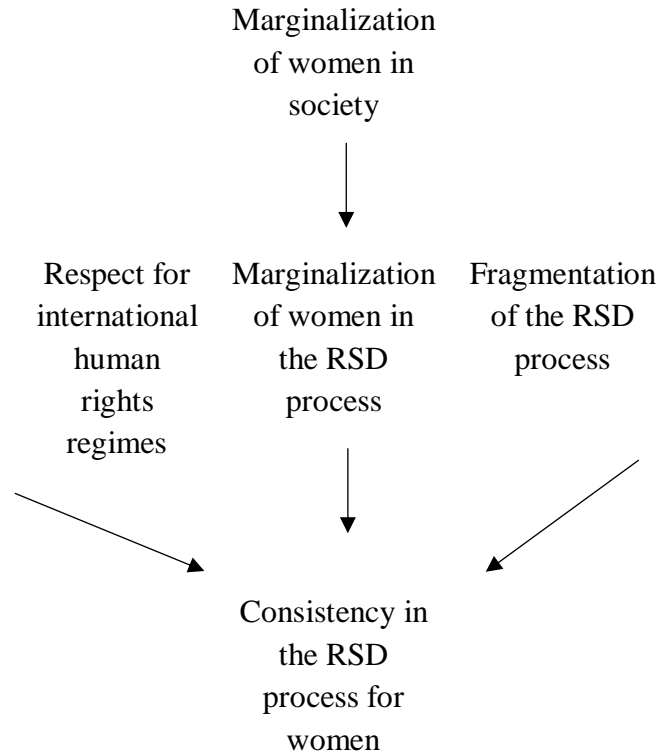
throughout the literature. Constructivism promotes the notion that aspects of international relations are historically or socially constructed through interactions and behaviors (Wendt, Finnemore, Sikkink). Wendt discusses an approach that combines considerations of structural and individual factors in what has been termed the “structure-agent” approach (1987). In my research, the combined agency/structure constructivist approach is helpful in examining larger institutional factors and their connection with individual experiences. My research will support the constructivist idea that ideas and identities matter in international relations issues.

Across the literature on the RSD process, there is what Meryl Kennedy describes as a “distinct gap between sophisticated theoretical work on gender and empirical gender research” (2007). Throughout my research, I observed this issue first hand. I encountered abundant literature describing the issues in the RSD process for individuals claiming asylum for gender-based persecution. However, explanations as to why these issues were present were scarce. My research seeks to build on the theoretical work that has been done on the RSD process and offer empirical explanations for the factors that have led to the current situation.

Argument and Theory

I argue that three factors influence the consistency in the RSD process for female migrants seeking asylum for gender-based persecution: respect for international human rights regimes, marginalization of women in society and in the RSD process, and fragmentation of the RSD process. These three factors have contributed to high levels of consistency in the RSD process in Canada and low levels of consistency in the United States. This variation in consistency manifests in two ways: 1.) consistency between domestic law and international soft law and 2.) consistency between each country’s asylum policy and the asylum decisions made in the adjudication phase of the process. For my second independent variable, I argue that broader ideas

about gender and society’s treatment of women in general influence the role of gender in the RSD process, which in turn influences the level of consistency in the RSD process for women seeking asylum for gender-based persecution. The following causal diagram represents the relationships between my independent variables and my dependent variable:



My first independent variable is respect for international human rights regimes. I will be using an institutionalist framework by examining the way that international institutions have established norms, laws, and structures in this relatively new and not-yet-settled area of law. Documents such as the 1946 Constitution of the International Refugee Organization and Article 14 of the 1948 Declaration of Human Rights are important formal institutional factors that have influenced Canadian and U.S. policy. Because Canada and the U.S. both adopted their own version of the U.N. guidelines, I will also be examining these documents as domestic institutions. However, Jacqueline Bhabha notes that institutional ideology also plays a role in the

granting of asylum. She states, "those responsible for the practical administration of asylum adjudication.... exclude women and child asylum applicants because they tend to operate with an age and gender-defined lens, a restrictive, traditional male-centered notion of persecution which deems no prototypical asylum applicants apolitical, passive victims whose risk of harm occurs within the private sphere" (228).

Institutionalism, specifically the historical, discursive, and feminist branches of new institutionalism, are helpful in explaining the theoretical importance of international human rights regimes. Georgina Waylen states that institutions, which can be formal or informal, constrain or enable actors' behavior and therefore structure social interaction (Waylen 214). One theoretical lens that is conspicuously missing from the literature on gender and migration is historical institutionalism. Historical institutionalists emphasize structure and continuity because institutions tend toward "path dependency" (Mackay et al. 575). Path dependency in international relations captures the idea that, once a path is chosen by a certain actor, that path is "locked in," and other actors must adjust their trajectory to accommodate that path (Thelen 385). Historical institutionalism can be useful in explaining the historical development of international human rights regimes because they are comprised of both formal institutions such as organizations and treaties and informal institutions such as human rights norms and standards. Additionally, feminist institutionalism is also a useful argument here because it examines how gender norms are constructed and maintained within institutions.

For my other independent variable, respect for international human rights regimes, I examine Canada and the United States' respective histories regarding international norms and institutions. I rely on data such as reports from Human Rights Watch and the U.N. To measure the variation in this variable, I examine the level of participation Canada

and the U.S. have exhibited in international rights regimes through ratifying treaties and conventions. "High respect for international human rights regimes" means that Canada participates in the majority of international human rights treaties and conventions. "Low respect for international human rights regimes" means that the U.S. fails to participate in these same treaties and conventions to the same extent as Canada.

In addition to my first variable, my third variable, fragmentation of the RSD process, has roots in institutionalism as well. Whereas my first independent variable emphasizes the importance of international institutions such as human rights norms and conventions, my third independent variable focuses on domestic institutions. My research examines the actual structure of the domestic institutions that constitute the RSD process in Canada and the United States.

My second independent variable, marginalization of women in society and in the RSD process, is derived from feminism. I argue that marginalization of women in society leads to marginalization of women in the RSD process. Ideas from second-wave and fourth-wave feminism are particularly useful in the discussion of gender and asylum. After women gained the right to vote in the U.S., second-wave feminists turned to other issues of gender equality such as family life, reproductive rights, and gender discrimination in the workplace. Second-wave feminism also brought attention to the high levels of domestic violence and rape in the United States and around the world (Martinez). Fourth-wave feminism is also useful because this more intersectional scholarship pushes for the empowerment of marginalized groups (Munro). Additionally, fourth-wave feminists have mobilized against sexual assault and harassment, which are two widespread forms of gender-based persecution (Munro).

Feminist political scientists have brought gender into the conversation about immigration. It is only in the last twenty to thirty years that feminism

and migration studies have been studied in tandem (Hondagneu-Sotelo 107). Pierette Hondagneu-Sotelo describes three phases of the incorporation of feminist studies and migration studies that have taken place since the 1980s. As she describes it, phase one included remedying the exclusion of women from research, phase two incorporated the intersectionality of gender with race and class, and phase three started to recognize gender as a “constitutive element of immigration” (Hondagneu-Sotelo 113-117). This third phase that Hondagneu-Sotelo describes is important to the discussion of gender and asylum. Many argue that the international community and domestic lawmakers need to incorporate “gender” into asylum law as a category that merits protection from persecution (Schenk 303) or at least reinterpret the “membership in a particular social group” category to include gender (Heitz 215). In the empirical portion of this paper, I will explain how Canada has been more successful in incorporating this idea into their legal system.

Cynthia Enloe’s work on feminist consciousness is essential in reevaluating RSD to more fully incorporate gender as a serious consideration throughout the process. Enloe argues that gender alone is not enough to transform international relations into a more useful discipline. Rather, she claims, “There needs to be a feminist consciousness informing our work on gender. A feminist consciousness is what keeps one taking seriously...the experiences, actions and ideas of women and girls” (“Gender is not enough...” 97). A feminist consciousness is essential in reevaluating the RSD process to more fully incorporate gender as a serious consideration throughout the process. Canada has been more successful in adopting this feminist consciousness by taking steps to make their RSD process more responsive to the varied experiences of women and men, especially given the social, cultural, and political contexts of the nations their asylum seekers are traveling from. In addition to promoting a feminist consciousness in international relations, Enloe promotes the idea of

gender mainstreaming. In the same vein as feminist consciousness, gender mainstreaming is a concept in public policy that recognizes the importance of considering the effects of policy on men *and* women when making policy decisions. Although gender mainstreaming was only introduced in the mid-1990s, it has become extremely popular throughout the world.¹

My theoretical approach combines multiple theories that influenced this research: feminism, constructivism, and several branches of institutionalism. By taking this combined approach, the goal of this research is to look at the nuanced ways that the foci of these theories (i.e. gender, ideas and identities, and institutions) all interact in the RSD process. Some scholars of migration use only a single theoretical approach or only a macro or micro-level analysis. However, I believe there is value in drawing from multiple disciplines and theories in order to achieve a more complete understanding of the many factors at play in the intersection of gender, asylum law, and migration studies in general. By incorporating multiple theories through three independent variables, my research aims to achieve a richer analysis of the RSD process than research that only uses one theoretical approach and highlight the importance of institutions, ideas, and identities in the RSD process.

Throughout the course of my research, I encountered a wealth of sources describing the flaws in the RSD process for gender-based asylum claims. However, much of the literature fails to connect the abstract ideas the authors describe to tangible variables at work in the world. My research seeks to connect the principles espoused by the scholars of this topic and the phenomena described in the

¹ Recently, there has been debate about transitioning gender mainstreaming to “diversity mainstreaming” or “intersectional sensitivity” in an attempt to reflect current gender sensitivities (Bacchia and Eveline 311). However, for the purposes of this research, it is sufficient to solely focus on gender mainstreaming because it more closely reflects the movements occurring during the scope of my project, the 1990s.

literature to measurable causal factors. As of yet, no comprehensive and conclusive study has been conducted on all asylum claims in the U.S. in the past twenty years (Berger 661). Instead, scholars such as Berger and Musalo rely on individual case studies of important legal precedent or particularly illustrative cases that show common themes. Although individual case studies can shed light on this topic, they are not as useful as large-scale research would be for conclusively identifying trends at a national or international level.

My research seeks to answer the questions that the existing research leaves unanswered: What factors led to these problems? Why has gender not been officially incorporated into the definition of refugee in some contexts? Why do women like Rodi Alvarado, who have clearly experienced persecution that was perpetrated or perpetuated by their country's government, not receive asylum?

Research design and methods

Before beginning any empirical analysis, it is important to define several key terms that will be used throughout this paper. The first and most basic term to understand is *refugee*. In 1951, the United Nations met in a special convention to establish the Convention Relating to the Status of Refugees. This convention, along with its 1967 Protocol, established the standard definition of a refugee, which has defined international law and the domestic law of signing parties, ever since. Article 1 of the Convention establishes:

The term “refugee” shall apply to any person who... [a]s a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country;... (Heitz 221)

Asylum is a form of protection offered to those who qualify as refugees. Asylum is a concept that has existed since the eras of the Ancient Greeks, Egyptians, and Hebrews, but it was not formally codified until the 1948 Universal Declaration of Human Rights. Article 14 of the Declaration states, “Everyone has the right to seek and enjoy in other countries asylum from persecution” (“Universal Declaration of Human Rights”). Additionally, the 1951 Convention and its 1967 Protocol guide national legislation for asylum across the world.

For this research, the most important element of this definition of refugee is not what is included in the definition but what is excluded from it. According to this standard definition, the term refugee is not automatically applied to individuals who experience persecution based on their gender. Instead, asylum seekers claiming gender-based persecution face an additional burden in proving their asylum claim. All asylum seekers already hold the burden of proving that they were persecuted or fear persecution in their home country and therefore cannot return. Women seeking asylum for gender-based persecution have the additional burden of proving their membership in a particular social group.²

As refugees apply for asylum, they go through the refugee status determination (RSD) process. According to the United Nations High Commissioner for Refugees, RSD is defined as “the legal or administrative process by which governments or UNHCR determine whether a person seeking international protection is considered a refugee under international, regional or national law” (“Refugee Status Determination”).

Individuals can apply for asylum for protection from a range of different types of persecution—from religious to ethnic to political. This paper focuses on gender-based persecution,

² On top of this burden, U.S. courts have placed additional conditions on the “particular social group” to which asylum seekers must prove they belong.

which can take a wide range of forms depending on the location, context, and situation in which the persecution occurs. Gender-based persecution has no strict legal meaning. Instead, it is a term used to capture the wide range of refugee and asylum claims in which gender played a role in the persecution (Crawley). A large portion of gender-based persecution is comprised of gender-based violence. According to the 1993 U.N. Declaration on the Elimination of Violence against Women, which gave the first formal definition for this term, violence against women is "any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or private life" ("Violence Against Women..."). Forms of gender-based persecution can include domestic violence, rape, sexual violence, trafficking and prostitution, honor killing, femicide, and female genital mutilation.³ The extent to which these forms of persecution occur varies depending on regional and cultural context throughout the world.

For women to receive asylum for gender-based persecution, it is not enough for them to prove that they experienced violence based on their gender. They must also prove that the crime they experienced resulted from a larger societal attitude about women and that the government of their home country is either unwilling or unable to take "reasonable measures" to prevent or punish this type of crime in the future ("Gender-Based Asylum"). This is why it is important for decision makers in the RSD process to take into account the cultural climate asylum seekers are fleeing.

Another important term to define is international human rights regimes. The codification of international human rights regimes began in 1945 with the establishment of the United Nations. From

that point forward, the U.N. has helped establish an international human rights regime through an interlocking set of treaties and conventions, international law, and norms and institutions. Stephen D. Krasner defines international regimes as "principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area" (Donnelly 600). International regimes include principles, norms, rules, and procedures that govern an issue area such as human rights.

Now that I have defined the important terms for this research, I will explain how I will operationalize them. I chose to compare Canada and the U.S. because these cases show variation in the consistency of their RSD process for claims of gender-based persecution. I will show that Canada exhibits high levels of consistency in the RSD process for gender-based claims of asylum and the U.S. exhibits low levels of consistency in this area. To do so, I will examine policy and legal developments from 1991-2001 in both of these countries because this decade saw rising numbers of female asylum seekers, major developments in the area of gender-based asylum law, and innovative theoretical work in feminist political science and institutionalism. To assess my dependent variable, I examine important international and domestic gender guidelines, and I examine the results of specific cases of gender-based asylum claims. The variation in level of consistency is two-fold: it occurs first in the policy adopted in asylum law and then plays out in the adjudication phase of the RSD process. First, to show that Canada's policy is consistent with international norms and the U.S.'s is not, I will compare its policies with the international standards. Second, to show that Canada's adjudication is consistent with its policy and the U.S.'s is not, I will examine the landmark decisions in this area in comparison with the policies in place. By "high consistency," I mean that Canada's policy matches international standards and their adjudication phase matches the policy. By "low consistency," I mean that the U.S.'s policy does not

³ This is not a comprehensive list of all forms of gender-based persecution, but it includes some of the most common types of gender-based violence experienced by women.

match international standards and their adjudication phase does not match the policy.

Through the course of my research, I did encounter some variables that failed to show very much variation between Canada and the U.S. For instance, I looked at certain indices that measure gender inequality such as the Gender Inequality Index (GII) created by the U.N. I expected the index to show that Canada was far outranking the U.S. in regard to gender inequality. Instead, I found the GII showed only a small amount of variation for gender inequality in Canada and the U.S. (“Gender Inequality Index (GII)”). Because some comprehensive indices such as the GII do not show a large margin of variation between these cases, I turn to measures that focus specifically on political and economic representation. For instance, one of my variables is marginalization of women in society and in the RSD process. To operationalize this variable, I compare levels of female representation in Canada and the U.S.’s national legislatures, data from the World Economic Forum’s Global Gender Gap Report, and data from the United Nations Development Programme’s Human Development Report. These indices use women’s political representation and economic power as proxy measures for the level of gender inequality in a certain society.

For my third independent variable, fragmentation of the RSD process, I compare the structures of the RSD processes in Canada and the U.S. I compare the theoretical frameworks that have influenced the development of the processes in each country as well as the actual structure of the system that asylum seekers must navigate. To operationalize this variable, I compare the number of agencies and departments involved in the process. I also compare whether each process is more bureaucratic or adversarial in nature. The bureaucratic approach focuses on gathering thorough information about each case through an interview and research process

whereas the adversarial approach places the burden of proof on the asylum seeker, who must prove that they deserve protection from persecution to an interviewer or judge. As more adversarial agencies become involved, fragmentation increases. This variable is derived from the work of political scientist Rebecca Hamlin and her comparison of these two systems. Before analyzing this variable, it is important to explain what I mean by “fragmented.” I use the term fragmented to capture the amount of disjunction or disorganization in the RSD process. Fragmentation (or lack thereof) results from the ideological frameworks that control the RSD processes and the structure of the RSD process itself. “Low fragmentation” means that less agencies are involved in the RSD process while “high fragmentation” means that more agencies are involved in the process.

To measure my dependent variable, consistency in asylum adjudication, it would have been ideal to compare quantitative data showing the amount of gender-based asylum claims granted in Canada versus those granted in the U.S. I would also have liked to examine the amount of cases denied or granted in each country. Unfortunately, these data are not published by either government. Instead of exact numbers of asylum applications, grants, and denials, I will be examining the consistency of each nation’s policy as an entire body of law rather than as a data set. In the U.S., the policy in this area is relatively sparse. This lack of policy has given the courts wide latitude to establish this area of law largely independently, and the major developments in the area of gender-based asylum law have taken place in the courts. Therefore, I will be referencing specific cases in each country that have influenced the adjudication of these claims.

III. Evidence

The following chart illustrates the relationship between the three independent variables and the dependent variable in my argument:

| | Respect for international human rights regimes | Marginalization of women in society and in the RSD process | Fragmentation of RSD process | Levels of consistency in the RSD process |
|--------------------------|---|---|-------------------------------------|---|
| Canada | High | Medium/Low | Low | High |
| The United States | Low | High | High | Low |

Background: The Changing Nature of Asylum in the 1980s

The concept of asylum and refugee status emerged on the international stage in the wake of World War II. After the Holocaust, the international community recognized its failure to accept and protect the thousands of Jews seeking refuge abroad and took steps to prepare for the future by formalizing a definition of *refugee* and establishing protocols for humanitarian migration (Reimann 1261). As described in the theoretical section of this paper, the U.N. met at the 1951 Convention Relating to the Rights of Refugees and formalized a standard definition of refugee. This definition has dominated international asylum law ever since.

For several decades after the Convention was signed, concerns about the Cold War dominated the international asylum paradigm. The typical asylum seeker was thought to be a male migrant fleeing a communist regime such as Cuba, and this thinking informed asylum decisions (Berger 664).⁴ As the make-up of the world's asylum seekers shifted, so too did the asylum paradigm. During the 1980s, violence, unrest, and civil wars shifted the

majority of asylum seekers away from men fleeing communism to women and children fleeing different types of violence and persecution. For instance, both Guatemala and El Salvador, which both contribute to humanitarian migration to the United States, were experiencing brutal civil wars throughout the 1980s (Reimann 1200). These internal conflicts drove migrants to seek safety and protection abroad. Since the 1980s, UNHCR has estimated that the majority of refugees in the world are women and girls (Hamlin 121).

The United Nations Gender Guidelines

As the nature of asylum changed internationally in the 1980s, it became apparent that existing international asylum law was not sufficient for processing gender-based asylum claims. Gender had been largely ignored in the dominant discourse on asylum because it is not enumerated as a protected category in the Convention like race and national origin are (Crawley). Instead, gender-based claims of persecution must fit into the catch-all category of membership in a "particular social group" (Reimann 1201). This presents an additional and considerable challenge to females claiming gender-based persecution to: 1.) Establish that they experienced persecution that their state either committed or refused to protect them from, and 2.) prove their membership in a social group that led to their persecution.

⁴ It is worth noting that the definition adopted in the 1951 Convention uses male pronouns such as "his" and "himself." Additionally, this definition focuses on persecution committed by states, which occurs in the public sphere. This aspect of the definition made it more difficult to adapt it for use in cases of gender-based persecution, which often occurs in the private sphere. Some scholars argue that this definition itself privileges the experiences of men over those of women (Boyd and Newark 107).

In 1991, the Executive Committee of the United Nations High Commissioner for Refugees (UNHCR) issued a set of guidelines for dealing with gender-based asylum claims entitled *Guidelines on the Protection of Refugee Women* and urged all parties to adopt their own guidelines (Reimann 1217). These guidelines describe some important steps that migrant-receiving countries should take to ensure that they appropriately address gender-based asylum claims. These guidelines make it clear that women should be considered a “particular social group,” outline different forms that gender-based persecution can take and encourage migrant-receiving countries to train immigration officials specifically to deal with cases of gender-based persecution (Hamlin 125). Since issuing the original guidelines in 1991, the UNHCR has continued to update their policies and issue new sets of reports and recommendations, contributing to a body of international soft law on this area of law.

Dependent variable: Consistency in the RSD process for female migrants

Canada and the United States have shown contrasting responses to the shifting global make-up of asylum seekers and the subsequent release of the U.N. *Gender Guidelines*. Canada is seen as an international pioneer in incorporating gender-based asylum claims into its RSD process. On the other hand, the United States has been conspicuously lagging in the adoption of a new legal framework to address gender in asylum claims. Each country has shown differing responses to the U.N. *Gender Guidelines*: Canada responded with a proactive adoption of concrete guidelines for dealing with gender. The U.S.’s response was lackluster: although the U.S. passed their own set of “considerations,” there have been no significant steps taken to ingrain meaningful guidelines on gender into its system. As a result of the differing policy responses, the countries’ RSD processes have shown differing levels of consistency. Canada has shown a high level of consistency in the RSD process for women fleeing gender-based persecution while the United

States has shown a low level of consistency from 1991 to 2001. The following chart shows the two-fold way that Canada and the U.S. demonstrate varying levels of consistency in the RSD process for women fleeing gender-based persecution:

| | Consistency between domestic gender guidelines and U.N. Gender Guidelines | Consistency between domestic gender guidelines and adjudication of asylum cases |
|----------------------|--|--|
| Canada | High | High |
| United States | Low | Low |

Canada’s response: high consistency in the RSD process

As soon as the UNHCR published the *Gender Guidelines* in 1991, Canada swiftly moved to adopt their own version of the guidelines and incorporate the international change into their domestic asylum law. They became the first country to do so in 1993 by issuing the *Guidelines on Women Refugee Claimants Fearing Gender-Related Persecution*. Immigration in Canada is controlled by the Immigration and Refugee Protection Act, and the RSD process is carried out by a singular body known as the Immigration and Refugee Board (IRB). Although gender has not been explicitly incorporated into the Immigration and Refugee Protection Act, decision-makers in the IRB are expected to apply the Canadian guidelines or provide a “reasoned justification” for not doing so in their decision (R. Hamlin).

The first way that Canada’s RSD process showed consistency was by aligning its guidelines with the *Gender Guidelines* issued by UNHCR. Canada’s guidelines are extremely similar to the guidelines issued by the U.N. In fact, some sections of their guidelines quote the U.N. guidelines verbatim (R. Hamlin 126). Both the Canadian guidelines and the U.N. guidelines outline the

various ways that women can experience persecution (Ramirez 4). Both sets of guidelines also acknowledge the public versus private distinction that has historically made women's experiences invisible. A "Framework of Analysis" accompanies the Canadian guidelines. The "Framework" considers the particular circumstance and country conditions that surround the asylum seeker's persecution (Ramirez 4).

The second way that Canada has shown consistency is the alignment of their guidelines with the actual adjudication of asylum decisions. Precedent from the Supreme Court of Canada ensures that decision makers incorporate considerations for gender into their decisions. These guidelines are a set of administrative directives issued for the IRB, so they are not technically legally binding. However, IRB members are compelled to follow the guidelines unless they can demonstrate "compelling reasons" for departure from them. Canada obviously took steps to incorporate gender into their existing asylum structure through the court system. In *Canada v. Ward* (1993), the Supreme Court of Canada stated *in dicta* that the characteristics of gender and sexual orientation can define a particular social group (*Canada (Attorney General) v. Ward*, [1993]). This ruling recognized that gender was a valid criterion for membership in a social group, which was a huge step in Canada's domestic asylum law. Additionally, in *Narvaez v. Canada (Minister of Citizenship and Immigration)* (1995), the Court ruled that although the gender guidelines are not binding law, they were "intended to be followed unless circumstances are such that a different analysis is appropriate." (*Cecilia Narvaez... v. Canada [1995]*). The Canadian Court consistently demonstrated that considerations for gender were to be taken seriously by the IRB and that claimants of gender-based persecution did deserve protection under Canadian asylum law.

One important step that Canada took to ensure consistency in adjudication of gender-based asylum claims was incorporating "gender" as a

category that merited protection from persecution in the same way that race and national origin do. In 1996, the IRB issued and updated a version of the guidelines entitled *Guideline 4: Women Refugee Claimants Fearing Gender-Related Persecution. A Review of Gender, Child, and LGBTI Asylum Guidelines*, a publication by the Center for Gender and Refugee Studies at University of California Hastings describes the significance of this updated set of guidelines in Canadian law:

The guidelines state that women can belong to a "gender-defined social group" whereby they "fear persecution as the consequence of failing to conform to, or for transgressing, certain gender-discriminating religious or customary laws and practices in their country of origin" and also "fear persecution resulting from certain circumstances of severe discrimination on grounds of gender or acts of violence either by public authorities or at the hands of private citizens from whose actions the state is unwilling or unable to adequately protect the concerned persons. (*Review...* 16)

This presents a hugely significant step in Canadian asylum law because this gives credence to the idea that women can be persecuted for being women. Additionally, in 2003 the IRB issued a *Compendium of Decisions: Guidelines 4: Women Refugee Claimants Fearing Gender-Related Persecution: Update*, which summarized gender-based refugee decisions (*Review...* 16). The publication of this summary was yet another step taken by the IRB to ensure that gender was fully incorporated into their RSD process. Canada's demonstrated and repeated commitment to implementing meaningful considerations for gender speaks to the importance of institutions (such as the U.N. and their gender guidelines) and the influence of institutions on domestic policy.

Canada took visible steps to incorporate gender into their asylum framework, and it has shown visible results. In 2003, the UNHCR praised

the IRB for its successful incorporation of gender into its RSD regime. The UNHCR issued a press release citing the fact that Canada was accepting around 70% of gender-based asylum claims, a rate that far out-paces the average acceptance rate for all asylum claims (R. Hamlin 129). A Canadian Broadcasting Corporation (CBC) study found that today, gender-based persecution is the most common reason that women seek refuge in Canada, surpassing religious or ethnic persecution (Carman and Elash).

United States' response: low consistency in the RSD process

U.S. Immigration and Naturalization Services (INS) did adopt their own set of gender guidelines in 1995, becoming the second country to do so after Canada's swift adopting of their own guidelines in 1993 (Reimann 1218). Like Canada's guidelines, the U.S.'s *Considerations for Asylum Officers Adjudicating Asylum Claims from Women* are not legally binding (Macklin 21). However, unlike Canadian officials, when ruling on gender-related asylum claims, U.S. judges retain their ability to choose to follow the guidelines or not. When the guidelines were first issued in 1995, some U.S. courts began incorporating the guidelines into asylum decisions. However, over time, the courts gradually moved back toward a decision-making process that ignores the guidelines because they are not bound to follow them (Zeigler and Stewart 21).

The first way that the U.S.'s RSD process has shown inconsistency is in their failure to align the *Gender Considerations* with the U.N. *Gender Guidelines*. Whereas Canada's guidelines closely follow the U.N.'s example, the U.S.'s considerations do not. First, rather than being termed "guidelines," this set of rules was instead dubbed "considerations," implying that gender should simply be "considered" when making asylum decisions. Second, the text of the considerations does not match the text of the U.N. guidelines. One of the most important aspects of the U.N. guidelines is that they recognize that "gender" should be

recognized as a category that merits asylum in the same way that race and national origin do. However, the U.S. considerations do not include this important section (R. Hamlin).

The second way that the U.S.'s RSD process has been inconsistent is the disconnectedness between the *Gender Considerations* and the adjudication of asylum cases. There has not been a decision that is comparable to *Narvaez v. Canada* in the U.S. courts, so there is no legal precedent that compels INS (or the Department of Justice) to follow the *Gender Considerations*. Instead, U.S. decisions have been inconsistent in their adjudication of gender-based asylum claims. This trend began in 1985, when the U.S. Department of Justice Board of Immigration Appeals (BIA), handed down their decision in *Matter of Acosta*. In *Acosta*, the BIA determined that the particular social group to which a person belongs must present an "immutable characteristic" (Board of Immigration Appeals). Although the BIA suggested that gender and sexuality might be used as social groups possessing this classification as "immutable characteristics" in *Acosta*, the U.S. courts have failed to consistently apply this standard across the board (R. Hamlin 132).⁵ There was hope for the solidification of gender-based asylum claims when the BIA decided *Matter of Kasinga* in 1996. In *Kasinga*, the BIA granted asylum to a woman from Togo fearing female genital mutilation (FGM) on the basis of the *Acosta* precedent and the newly-minted *Gender Considerations* (R. Hamlin 132). However, although the BIA recognized FGM as gender-based persecution that should merit a grant of asylum in *Kasinga*, this ruling did not apply to other types of gender-based persecution (R. Hamlin 133).

⁵ See Figure 1 in the Appendix: "*Developments in Domestic Violence Asylum Timeline (1985-2010)*," Center for Gender and Refugee Studies" for an outline of gender-based asylum decisions in the U.S. that were important precedent in this area of asylum law during the 1990s.

Rodi Alvarado's case, *Matter of R-A*, best exemplifies the inconsistency in U.S. gender-based asylum law. As mentioned in the introduction, an immigration judge initially granted Ms. Alvarado asylum based on the *Kasinga* precedent. However, after Immigration and Naturalization Services (INS) appealed the decision, the BIA reversed Ms. Alvarado's grant of asylum (Musalo 125). Shortly after, the Department of Homeland Security issued additional proposed guidelines for dealing with gender and asylum. The Attorney General, Janet Reno, vacated the BIA's denial and instructed the BIA to review the case again at the end of her time in office. Then, the new Attorney General John Ashcroft assigned the case to himself (intending to decide it personally), decided not to do so, and returned it to the BIA yet again. Then, the Department of Homeland Security (DHS), who was the body that originally denied Ms. Alvarado's claim, reversed their position and issued a brief arguing that Ms. Alvarado should be granted asylum after all. Karen Musalo, one of the attorneys who advocated for Ms. Alvarado, summarizes the effect of this case: "The absence of clear guidance in the form of regulations, or a precedential decision in *Matter of R-A* has left a vacuum, which has resulted in arbitrary decision-making, often notable for its confused understanding of the status of the law" ("Protecting Victims..." 126).

Because the *Gender Considerations* are not legally binding, and the BIA is not compelled to make use of the *Considerations*, U.S. courts have wide latitude to make arbitrary decisions on asylum cases. For instance, research has shown that immigration decisions are subject to disparities based on the gender of the judge reviewing the case and the region where the case is tried. Researchers at Syracuse University conducted a study of 293 immigration judges from 2015 to 2017. They found that male judges denied asylum in 66 percent of cases while female judges denied asylum in only 50 percent of cases (Rani et al). Additionally, asylum rates vary greatly by region. Reuters conducted a study using data from the Executive Office of

Immigration Review (EOIR) that found vast regional disparities in likelihood of asylum grants. For instance, they found that in Atlanta, 89 percent of asylum cases result in a deportation order whereas in New York, only 24 percent do (Rosenberg et al). There has been almost no effort on the part of U.S. lawmakers to remedy the inconsistency in asylum adjudication by establishing concrete laws on the subject. Instead, nearly all of the developments made in gender-based asylum law in the U.S. in the 1990s were made in the executive and judicial branches.

Three factors that account for this variation in consistency are levels of respect for international human rights regimes, marginalization of women in society and in the RSD process, and fragmentation of the RSD process.

Independent Variable 1: Respect for International Human Rights Regimes

Canada and the U.S. have demonstrated different levels of willingness to adapt to international norms. Whereas the United States is infamously lagging in its adoption of international treaties and conventions, Canada is internationally renowned as a leader in human rights ("Canada," *Human Rights Watch*). Canada has repeatedly demonstrated its willingness and eagerness to comply with international human rights regimes by signing and ratifying the majority of international human rights treaties and conventions approved by the international community. Canada has signed and ratified the seven principal U.N. conventions and covenants relating to human rights, which include the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on Protection of the Rights of All Migrant Workers and

Members of their Families (“Human Rights Treaties” and “Human Development Report 2001...”). Additionally, Canada has ratified a number of multilateral human rights treaties with other states.

In general, Canada has a stronger history of promoting human rights than the United States. International human rights regimes had a profound impact on Canada’s domestic framing, especially during the 1970s. Canada has not always been an eager promoter of human rights: the country was initially slow to sign onto the Universal Declaration of Human Rights in 1948 (Clément 755). Over time, however, Canada came to establish what Dominique Clément has dubbed “one of the most sophisticated human rights legal regimes in the world” (764). Due to the activism of human rights groups, Canada began to eagerly adopt international human rights norms through U.N. treaties and conventions. The cornerstone accomplishment in this area was the 1982 addition of the Charter of Rights and Freedoms to the Canadian constitution, a bill of rights that ensures the right to gender equality, multiculturalism, language, and education (Clément 764). Canada’s incorporation of international human rights norms demonstrates a willingness on Canada’s part to adapt to and participate in international human rights regimes. Additionally, Canada simply lacks the history of connectedness to human rights abuses that the U.S. does.⁶

On the other hand, the United States has exhibited a general disregard for human rights concerns and international human rights law. This trend is evident in the U.S.’s reluctance to adopt

international human rights treaties throughout the twentieth century. Major human rights conventions and treaties were crafted in the 1940s and 1950s in the early days of the U.N., but the United States did not begin to ratify many of these treaties until the 1980s. The U.S. has failed to ratify many significant human rights treaties. Of the seven major human rights instruments previously named, the U.S. has signed yet failed to ratify three: CEDAW, the International Covenant on Economic, Social, and Cultural Rights, and the Convention on the Rights of the Child (Wilken).⁷ The U.S.’s failure to adopt international treaties and conventions signals a larger disregard for human rights. Despite being a vocal advocate of human rights in rhetoric, the U.S. often fails to enforce or adopt international human rights law when it contradicts domestic policy or threatens to harm its economic interests and autonomy (“The Global Human Rights Regime”).

Historically, the U.S.’s attitude toward international human rights norms has been proactive in rhetoric but not in reality. Jennifer Dixon identifies “rhetorical adaption” as a strategy of resistance to international norms that states can decide to use (Dixon 83). The U.S. was influential in establishing much of the framework of international human rights regimes in institutions such as the League of Nations, the United Nations, the Universal Declaration of Human Rights, and the Geneva Convention. However, it has failed to live up to the promises of these conventions it helped establish. One of the most glaring examples is the U.S.’s failure to participate in the International Criminal Court (ICC). Additionally, the U.S. has failed to ratify the Rome Statute, which is a foundational piece of international human rights law.

When the United States does sign or ratify an international human rights convention, the

⁶ To demonstrate this difference, I attempted to compare Human Rights Watch’s Annual Human Rights Reports for Canada and the United States in 1991, the year that the U.N. *Gender Guidelines* were adopted. Whereas Human Rights Watch produced a lengthy report critiquing the United States’ pitfalls in the area of human rights during that year, they did not even *create* a report on Canada until 2014—over twenty years later. This in itself is telling in the differing histories regarding respect for human rights between the neighboring states.

⁷ The U.S. is accompanied by only six other countries in failing to ratify CEDAW: Iran, Nauru, Palau, Somalia, Sudan, and Tonga. Somalia is the only other nation besides the U.S. that has not ratified the Convention on the Rights of the Child (Wilken).

ratification is often accompanied by reservations, understandings, and declarations (RUDs). RUDs are essentially caveats that states can add into conventions when they want to be exempt from a certain portion of the policy. The U.S. often issues RUDs that ensure the supremacy of domestic law over international law. For instance, the U.S. *did* ratify the Convention on the Elimination of All Forms of Racial Discrimination. However, it only passed with an RUD ensuring that this declaration would not trump the U.S.'s First Amendment protection of free speech. In this context, this RUD prevented the banning of hate groups such as the Ku Klux Klan under the Convention ("The Global Human Rights Regime").

In the asylum context, human rights scholars and attorneys attribute this disconnect between international standards in asylum law and the U.S.'s inconsistent enforcement of these standards to the fact that U.S. asylum law is "too embedded in domestic immigration law and institutions" (Anker 135). The U.S. has tended to prioritize domestic concerns over international standards in the area of immigration (Hamlin 136). The Pew Research Center analyzed decades of opinion-polling archives and found a historical trend in the United States that "American opposition to admitting large numbers of foreigners fleeing war and oppression has been pretty consistent" (DeSilver). Several pieces of data from the 1980s and 1990s show this trend. For instance, a June 1980 poll conducted by CBS and the *New York Times* found that 71 percent said they disapproved of allowing Cuban refugees to settle in the United States. Similarly, another poll by CBS and the *New York Times* found that in 1994, 80 percent disapproved of letting Cuban refugees settle in the U.S. (DeSilver). Additionally, Gallup poll data shows that disapproval of immigration in general hit a high point in the 1990s. From 1993 to 1995, disapproval of immigration hit the highest point it has since Gallup started collecting data on this topic, with 65 percent saying that immigration should be decreased in the United States (Gallup, Inc., "Immigration").

Canada and the United States' varying levels of respect for international human rights regimes directly connects to both discursive institutionalism and constructivism. By adhering to the major international human rights instruments, Canada has demonstrated its respect for human rights norms. On the other hand, the U.S. has historically disregarded many important human rights instruments and conventions. Instead of prioritizing international human rights standards, the U.S. has chosen to prioritize domestic concerns, citing issues such as national security and sovereignty. The U.S.'s actions also demonstrate an instance of the agency-structure relationship at work. Although the U.S. is operating in an international human rights regime, it continually asserts its power in that structure.

Independent Variable 2: Marginalization of women in society and in the refugee status determination process

In addition to the variation in respect for international human rights standards shown by Canada and the U.S., these countries also show variation in the extent to which women are marginalized in their respective societies and in the refugee status determination process. First, women in Canada and in the U.S. experience varying levels of inequality in society in general. There are several measures and indices that have been developed to measure gender inequality. First, according to data from the Inter-Parliamentary Union, in 1990, 13.3 percent of the seats in Canadian parliament were held by women while only 6.6 percent were held by women in the United States ("Proportions of seats..."). By 1995, the number had risen to 21.2 percent in Canada and 11.2 percent in the United States ("Human Development Data (1990-2017)"). Despite the fact that both percentages rise over time for both countries, Canada consistently has rates of female participation in parliament that nearly double the rates seen in the United States. Political participation is commonly used as a proxy measure for gender inequality because it can indicate the relative influence and power of women in a society

vis-à-vis men. Economic measures are also commonly used in an attempt to quantify gender equality (Demetriades).

Additionally, the World Economic Forum currently publishes the Global Gender Gap Index. This yearly report aims to measure the gap between men and women in four major areas: economic participation and opportunity, educational attainment, health and survival, and political empowerment (Hausmann et. al). In 2006, Canada ranked 14th in the Global Gender Gap Index, and the United States ranked 23rd (Hausmann et al.).⁸

The United Nations Human Development Programme is another useful source for data on comparative gender inequality around the world. In the 2001 Human Development Report, the U.N. published data on the Gender Empowerment Measure (GEM). GEM assesses gender inequality across the world based on percentage of seats in parliament held by women, percentage of female legislators, senior officials and managers, percentage of female professional and technical workers, and ratio of estimated female to male earned income.⁹ In 2001, Canada ranked 5th in GEM, and the United States ranked 10th (“Human Development Report 2001...”).¹⁰

Variation in gender equality is written into (or excluded from, in the case of the United States) the Constitutions of Canada and the U.S. In 1982, the Canadian Charter of Rights and Freedoms was incorporated into the Constitution of Canada. Section 28 of the Charter guarantees equal claim to the protections of the law listed in the charter by

stating, “Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons” (“Guide to the Canadian Charter...”). Additionally, the Canadian Human Rights Act of 1977 prevents discrimination based on sex or sexual orientation, among other things (“Consolidate Federal Laws...”). Although Section 28 of the Canadian Charter of Rights and Freedoms does not explicitly guarantee gender equality, it is similar to the Equal Rights Amendment (ERA) proposed in the United States. Women’s rights activists have struggled to pass the ERA, which would guarantee equal treatment of men and women under the Constitution and the law of the United States, since 1923. Despite almost one hundred years of campaigning, the ERA has never managed to be ratified by the thirty-eight states required to turn this amendment into law (K. Hamlin) The ERA was first introduced in Congress in 1923, but it was not approved by both houses of Congress until 1972. When it failed to be ratified by the requisite number of states by 1982, the bill died (K. Hamlin).

The marginalization of women in society leads to marginalization of women in the RSD process. In the 1990s, Canada took steps to include women in the RSD process. The IRB recognized the need to have females involved in the process as officers, interviewers, and interpreters in cases involving gender-based persecution. In 1993, when Canada issued their guidelines, about 40 percent of Canadian arbitrators were women (Trueheart).¹¹ The United States has taken no such steps to ensure equal participation of women in the RSD process.

The marginalization of women and female participation in the RSD (or lack thereof) is critically important to understanding chances of approval or denial in gender-based asylum cases. In asylum

⁸ While it would have been ideal to compare Canada and the United States’ rankings on the Gender Gap Index during a year within the main chronological scope of this research, 2006 was the first year the World Economic Forum compiled and published these data.

⁹ For a visual explanation of the calculation of the GEM, see Figure 3 in the Index.

¹⁰ As with the Gender Gap Index, it would have been ideal to compare rankings toward the beginning of the main chronological scope of this project. However, the GEM was not developed until 1995.

¹¹ I have not yet been able to find comparable data about the percentage of asylum adjudicators in the U.S. who are female. However, I have found no meaningful steps taken to ensure higher presence of women in the asylum process in the United States.

cases, the asylum seeker has the burden of proving that they face persecution or the threat of persecution due to their membership in a particular social group. Because the female seeking asylum bears this burden, the construction of a narrative becomes essential in their arguing their case. Amy Shuman and Carol Bohmer describe the additional challenge faced by women making gender claims: “A female applicant’s story is evaluated on the immigration official’s gendered expectations of women’s practices.... Successful claims conform to the immigration official’s expectations...” (948). Several factors can lead to cultural silences in this narrative construction (Shuman and Bohmer 941). Repeating the details of their abuse, sexual assault, and other experiences of persecution can often be a traumatic experience for survivors of gender-based persecution. This experience is worsened by having to repeat this story to male border control officers, interviewers, interpreters, and judges. This can lead to arbitrary decisions that are not based on complete and contextualized facts.

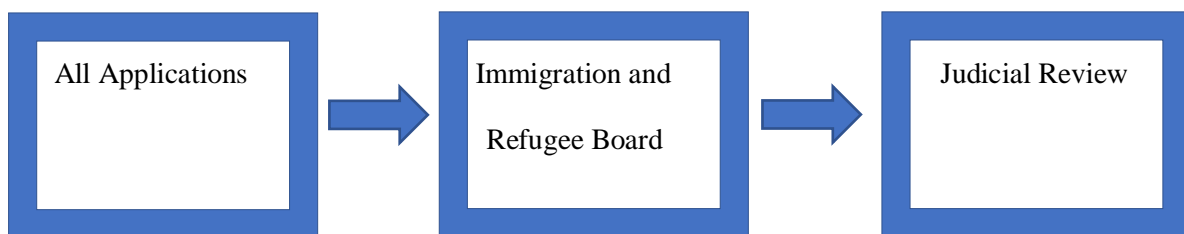
Although asylum policies and procedures are technically gender neutral, feminist scholars point out that these policies are inflected with gendered meanings and enacted in gendered social structures and that gender ideologies permeate the asylum process (Salcido and Menjívar 363). Yale University Professor Sunny Kim calls attention to the presence of gender bias in asylum law (109). For example, this bias appears in asylum hearings where

female migrants often struggle to persuade male judges that their claims of persecution are legitimate (Love 134). Women seeking asylum based on claims of domestic violence are often denied their claim because domestic violence is seen as a private rather than political issue (Love 141). This viewpoint fails to recognize that political and social culture lead to high numbers of domestic violence within certain countries and contexts (Mullally 464). The marginalization of women and a lack of consideration for gender in the formulation of the asylum process has contributed to the varying levels of consistency for female asylum seekers in Canada and the United States. Feminism and feminist institutionalism help to reveal the ways that women’s perception and performances of their gender influences the RSD process for women applying for protection for gender-based persecution.

Independent Variable 3: Fragmentation of the RSD process

The third independent variable effecting levels of consistency in the RSD process is fragmentation of the RSD process itself. Canada shows low levels of fragmentation, while the U.S. shows high levels of fragmentation. Although refugee status determination is an international concept, the actual steps of the process vary by country. The Canadian RSD process has a low level of fragmentation because it is centralized and based in the professional judgment approach.

The following diagram demonstrates the RSD process in Canada:¹²



¹² Source: Hamlin, Rebecca. *Let Me Be a Refugee: Administrative Justice and the Politics of Asylum in the United States, Canada, and Australia*. New York: Oxford University Press, 2014.

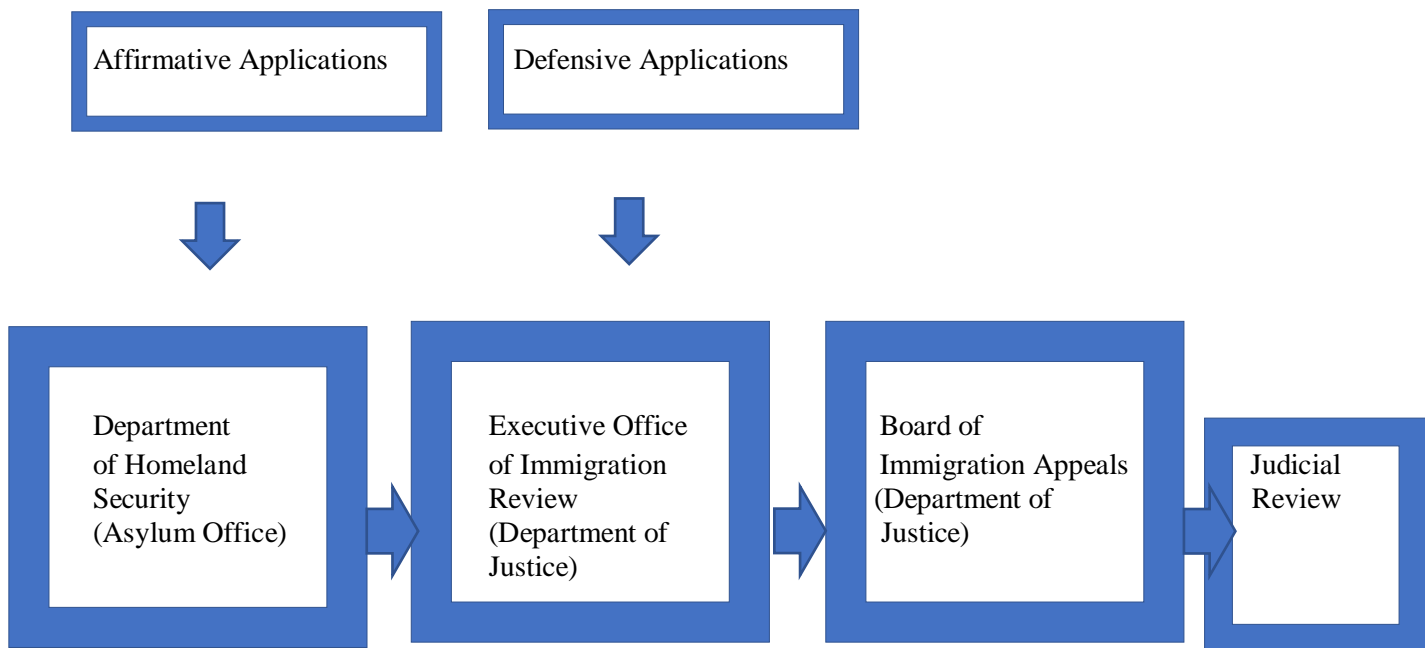
The Canadian RSD process is linear, uniform, and organized. It has even been called the “Cadillac system” of the world due to the high amount of time and care devoted to researching each individual case (R. Hamlin 85). In 1982, the Canadian Charter of Rights and Freedoms centralized the RSD process in the Immigration and Refugee Board (IRB), who is charged with carrying out a “rich administrative RSD process” (Hamlin 85). In 1989, Canada focused the process even more by creating the Refugee Protection Division (RPD), which is the singular agency that handles all Canadian RSD (Hamlin 86).

The Canadian RSD process uses the professional judgment method. When an asylum application is filed, it is directed to a team of Board Members that specializes in researching the specific country conditions in that area of the world. In Canada, rather than compelling asylum seekers to hire an attorney and convince a judge that they deserve asylum for the persecution they experienced, IRB officials bear the burden of investigating the claim. Then, applicants tell their stories to a Board Member in an interview-like setting. About half of asylum seekers in Canada are granted asylum by the IRB, while only one third are granted asylum in the American Asylum Office (which uses a comparable style of decision making) (R. Hamlin 88). Whereas the U.S. process is highly adversarial, even adding a judicial review stage to the Canadian process proved controversial. Additionally, the Canadian process is insulated. The IRB operates independently of the Citizenship and Immigration Canada (CIC), and there are low levels of judicial intervention. Rebecca Hamlin describes how low fragmentation leads to consistency: “...the professional judgement model of decision making prioritizes bureaucratic centralization and vertical accountability, which leads to consistency in outcomes” (126).

In contrast, the RSD process in the United States has a high level of fragmentation because is decentralized and dominated by an adversarial legalism framework. In the United States, the RSD process is fragmented from the moment an asylum

seeker applies because there are two methods of application. Asylum seekers may apply for asylum as soon as they arrive in the U.S. (affirmative applications) or once they are placed in removal proceedings (defensive applications) (Willingham). Then, applicants go through a legal process in which the burden is on the asylum applicant to prove persecution or fear of persecution. The following diagram demonstrates the RSD process in the United States:¹³

¹³ Source: Hamlin, Rebecca. *Let Me Be a Refugee: Administrative Justice and the Politics of Asylum in the United States, Canada, and Australia*. New York: Oxford University Press, 2014.



One reason the *Considerations* have not been effective in the U.S. is that they face the impossible task of being applied across multiple bodies, departments, and agencies. Both the Department of Justice (DOJ) and the Department of Homeland Security (DHS) have joint jurisdiction over the *Considerations* (Musalo 128).¹⁴ As demonstrated in *Matter of R-A-*, cases can be shuffled back and forth between different agencies for years on end. For example, when an applicant asks for asylum at the U.S. border, they might interact with a Customs and Border Protection Officer, be placed in Immigration and Customs Enforcement detention, file their application with United States Citizenship and Immigration Services, then have a hearing with an immigration judge in the Executive Office of Immigration Review. If their case is appealed by the DHS, it would then be heard by the Board of Immigration Appeals (BIA).

The following chart (see next page) summarizes the varied natures of the RSD regimes in Canada and the United States as they relate to gender-based asylum claims:

¹⁴ Before the Department of Homeland Security was created after September 11, 2001, Immigration and Naturalization Services was the agency that controlled the RSD process.

| Canada | The United States |
|---|---|
| <ul style="list-style-type: none"> • RSD is centralized in the IRB. • Professional judgment approach • IRB is compelled to follow gender guidelines. | <ul style="list-style-type: none"> • RSD is decentralized within INS/DOJ, DHS, and BIA. • Adversarial legalism • Neither INS nor BIA is compelled to follow gender guidelines. |

Fragmentation of the RSD process leads to variation in consistency in asylum adjudications. The centralization in Canada's system makes management and enforcement easier because decision makers interact regularly in a hierarchical leadership structure (R. Hamlin 87). On the other hand, the decentralization in the U.S.'s RSD process makes continuity between different departments difficult because they often operate in entirely different spheres. This fragmentation has to the inconsistency in the way the *Gender Considerations* were incorporated (or not incorporated) into asylum decisions. In addition to the importance of international institutions mentioned in the first variable, this variable demonstrates the importance of the structure and design of domestic institutions in the RSD process.

IV. Conclusion

Canada and the United States have demonstrated differing responses to the changing global nature of asylum and the U.N. *Gender Guidelines* released in 1991. Canada's response has shown high consistency in the refugee status determination process for claims of gender-based persecution. Its version of the *Gender Guidelines* closely mirrors the U.N. *Gender Guidelines*, and the adjudication of the gender-based claims has closely matched Canada's guidelines. This is because they have high levels of respect for international human rights regimes, low/medium levels of marginalization of women in society and in the RSD process, and low levels of fragmentation of the RSD process. On the other hand, the United States' RSD process has shown inconsistency. The U.S.'s *Gender*

Considerations do not align with the U.N. *Guidelines*, and asylum decisions in gender-based cases do not match the guidelines. This is because the U.S. has low levels of respect for international human rights regimes, high levels of marginalization of women in society and in the RSD process, and high levels of fragmentation in the RSD process.

This research has exposed a large disconnect between gender and sexuality studies and migration studies. There is a lot of high-quality theoretical research on gender in asylum law, but not much empirical work has been conducted that connects the trends discussed in the theoretical work with tangible data that can conclusively support or disprove the trends observed by scholars and legal advocates. This project has revealed the need for large-scale study of gender-based asylum claims in Canada and the United States. The first step in this research would be collecting data on the amounts of asylum approvals and denials for gender-based claims. From there, scholars could use this data to confirm the trends they observe in their qualitative work.

This research makes it clear that Canada has been a leader in this area while the U.S. has lagged behind. Therefore, it would be wise for the U.S. to follow Canada's example and establish an RSD process that is more fit to accommodate women seeking asylum for gender-based persecution. First, the U.S. should revise its *Considerations* to more closely match the U.N. *Guidelines* and international law. This would more closely align the U.S.'s domestic policy with the international norms. However, if the U.S. does not compel asylum

adjudicators to follow the guidelines, the new guidelines would prove useless. Therefore, the U.S. should compel asylum adjudicators to follow a new, firmer set of guidelines. If the U.S. were to centralize its RSD process, it would become a lot easier for adjudicators to consistently enforce an updated set of gender guidelines.

Additionally, the U.S. should take steps to make its RSD process more sensitive to gender. They should require all agencies involved in the asylum process to hire female employees as officers, interviewers, interpreters, and judges. Additionally, they should train all of their employees in gender sensitivity so that they are better equipped to hear and make decisions on claims of gender-based persecution. Training would not be able to remove the Western, gendered bias of interviewers, asylum officers, and judges, but it could help them make more informed decisions regarding gender-based persecution.

This research brings to light the issue of gender bias in the RSD process. Updated guidelines, gender sensitivity training, hiring more female adjudicators, and centralizing the RSD process would all help to make the United States' RSD process more efficient, but the root cause extends far deeper into society than just the RSD process. Inherent gender biases stretch so deep and so wide

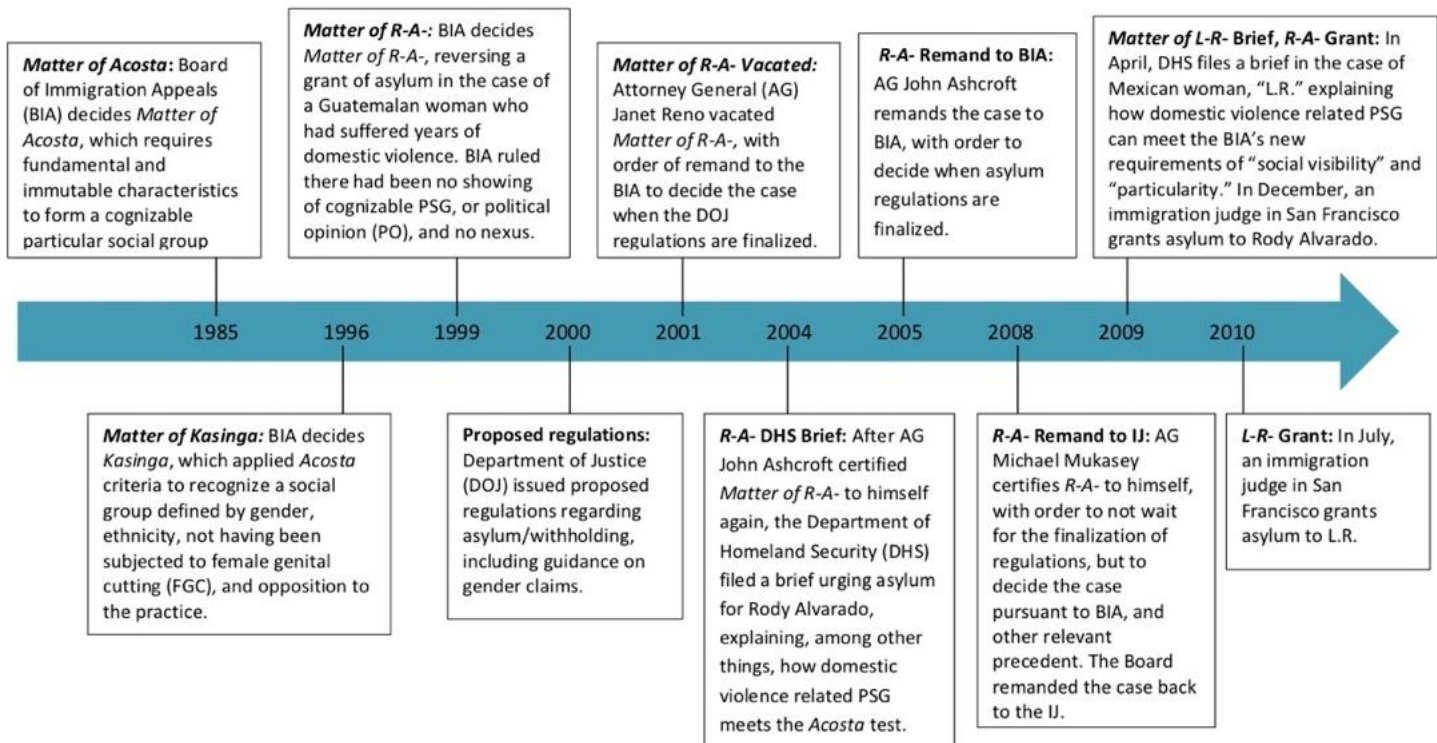
across the world that the task of addressing this issue seems insurmountable. However, policy adjustments could begin to address this problem for the thousands of women who seek asylum for gender-based persecution each year.

By failing to incorporate gender more fully into the RSD process, the U.S. is discounting the experiences of millions of women and the cultural and political contexts that lead to gender-based violence and persecution. By altering the RSD process to take gender seriously, the United States would take a step toward recognizing the suffering that women experience simply for being women. In a 2004 interview, in the middle of Rodi Alvarado's long struggle to be granted asylum in the United States, a PBS documentary producer asked Hilda Morales Trujillo, a Guatemalan women's rights attorney and activist, "What do you think would happen if the United States were to grant asylum to Rodi Alvarado?" Ms. Trujillo responded, "It would be powerful because it would send a message to the Guatemalan government that it could no longer allow violence against women with impunity to continue" (Musalo 119). If the United States took steps to mirror Canada's RSD process, these would be important steps toward recognizing the experiences of women—not just in Guatemala but around the world.

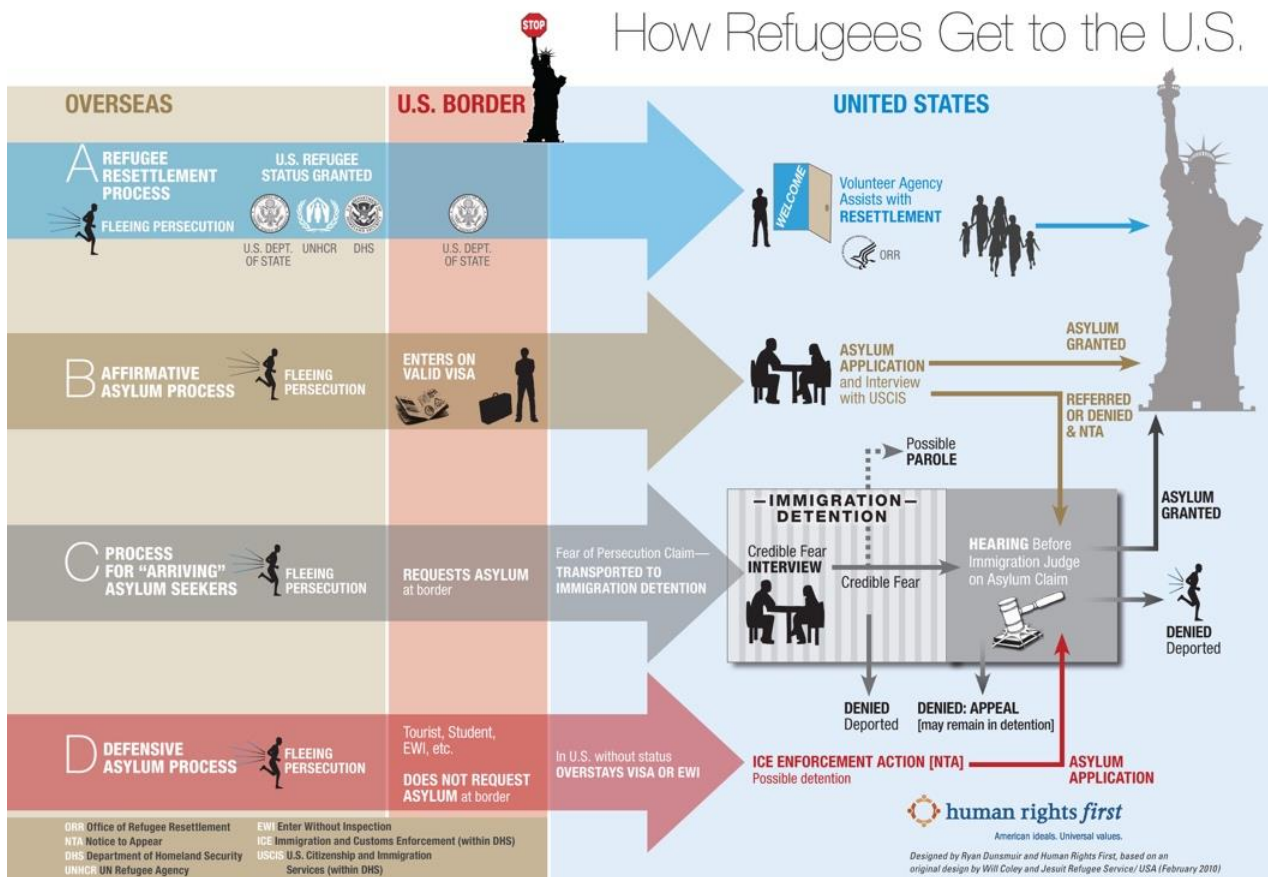
Appendix

Figure 1:¹⁵

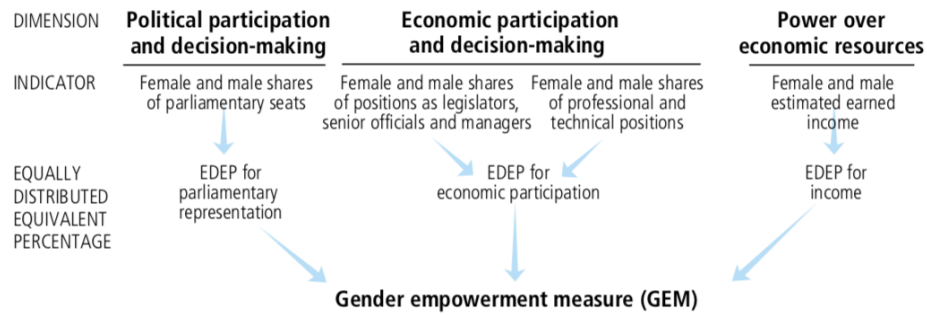
Developments in Domestic Violence Asylum Timeline (1985-2010)



¹⁵ Figure 1 Source: "Development in Domestic Violence Asylum Timeline (1985-2010)." University of California Hastings Center for Gender and Refugee Studies.

Figure 2:¹⁶

¹⁶ Figure 2 Source: "Asylum Overview: How Refugees Get to the United States." *Human Rights First. American Ideals. Universal Values*, Human Rights First, 5 June 2004, www.humanrightsfirst.org/resource/asylum-overview-how-refugees-get-united-states.

Figure 3:¹⁷

¹⁷ Figure 3 Source: “Human Development Report 2001: Making New Technologies Work for Human Development.” *Human Development Data (1990-2015) | Human Development Reports*, United Nations Development Programme (UNDP), hdr.undp.org/en/content/human-development-report-2001.

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Emily Perry



Olkhon Island, Russia

Emily Perry



Rhodes College
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