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## The Economic and Fiscal Impacts of Immigration in the United States

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*Maria Ali*

### Introduction

United States is home to the largest immigrant population in the world. According to Pew research, one in four Americans is an immigrant or the child of an immigrant.<sup>1</sup> Although majority of the immigrants assimilates faster in the United States than other developed nations,<sup>2</sup> immigration has become a controversial issue in the United States. Throughout its history, the United States has been a nation of immigrants. Benjamin Franklin once worried that too many German immigrants were a threat to American culture, and asserted that, “Those who come hither are generally of the most ignorant stupid sort of their own nation.”<sup>3</sup> In the 1830 and ’40s, Irish immigrants were scorned as lazy drunks. James Buckingham, a Cornish-born author wrote, “the emigrants who land at New York, whether they remain in that city or come on in the interior, are not merely ignorant and poor—which might be their misfortune rather than their fault—but they are drunken, dirty, indolent, and riotous, so as to be the objects of dislike and fear to all in whose neighborhood they congregate in large numbers.”<sup>4</sup> By 1870, a new wave of Russian, Polish and Italian immigrants became an easy target of discrimination and the immigrants were believed to be too different to assimilate into American life because of their non-existent English and heavy accents.<sup>5</sup> Today, the same fear is raised about immigrants from Latin America, Asia and, the Middle East.

The key points addressed in this paper are (1) what are the effects of immigration on wages, jobs, budgets, and the economy and (2) to what extent do the skills brought by immigrants complement those of native workers. Its main argument is that rather than undermining the American dream, immigration has been an important part of it, in terms of both enhancing the labor markets (in both the past and in the future) and promoting overall economic growth. Economic and fiscal analysis shows that there is not much evidence to support for the view that large influx of foreign labor has reduced jobs or wages. Additionally, economic theory explains that the wages are unaffected by the immigration and that the impact of immigration are broadly positive for the overall economy.

The paper is structured in three sections. Part I provides a review of the literature on the past waves of immigration and the extent of economic assimilation in terms of the rate at which the economic outcomes of immigrants catch up with those of the native-born (focusing on employment, wages, and learning the English language). Part II assesses the economic and fiscal impacts of high-skilled and low-skilled immigration, focusing on wages, employment and market growth. The main conclusion of Part II is that immigration is very unlikely to have a negative effect on the earnings of the native-born or on the economy as a whole. Part III addresses the factors that will be beneficial for the future of immigration.

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<sup>1</sup> Gustavo López, Kristen Bialik, and Jynnah Radford, “Key Findings about United States. Immigrants,” *Pew Research Center* (blog) 2018, (Accessed December 14, 2018).

<sup>2</sup> Claude S. Fischer, “Today’s immigrants assimilate faster than the Europeans who came before them,” *Timeline.com*, 23 February 2017 <https://timeline.com/todays-immigrants-assimilate-faster-than-the-europeans-who-came-before-them-38643d0c738a> (Accessed December 15, 2018).

<sup>3</sup> Aristide R. Zolberg, *A Nation by Design: Immigration Policy in the Fashioning of America* (Cambridge, London: Harvard University Press, 2008), 54.

<sup>4</sup> James Silk Buckingham, *The Eastern and Western States of America* (London: Fisher, Fisher, Son & Co., 1842), 223.

<sup>5</sup> Kurt Kinbacher, “Immigration, the American West, and the Twentieth Century” *digital commons.unl*, 2006, accessed December 2018.

## Literature Review

The topic of immigration is of crucial importance for both policymakers and academics. The immigrant's population has steadily increased from 4.7 percent in 1970 (the lower ever measured in the United States) to 11.1 percent in 2000 and further reached a record to 43.7 million in 2016.<sup>6</sup> About 76 percentage of immigrants in the United States are legal, while a quarter are unauthorized, 46 percent were naturalized United States Citizens, 27 percentage are permanent resident immigrants, and, 5 percent are on temporary visas.<sup>7</sup> Given the current and the projected rise in the level of immigration in the United States, understanding the effects of immigration becomes all the more important to policymakers and academics.

Not surprisingly, there is a great amount of literature on the subject of migration and its economic implications. The topic has been studied by a variety of disciplines such as political science, economics, policy, and reform advocacy. The below section examines the recent literature that discusses both the history and rates of economic assimilation of the immigrant population.

### *Migration: A Historical Overview and Conceptual Framework*

The literal meaning of “migration” is “a temporary or permanent change in residence,” or put more specifically, “the movement of a person or a group of persons from a certain geographical unit towards another, crossing political and administrative frontiers, in their will to establish in a different place than the original one.” To be brief, migration refers to a mere shift in the physical space.<sup>8</sup>

According to the U.S. Census Bureau, population over 65 will outnumber children by the year 2035.<sup>9</sup> The inflow of immigrants' labor has helped the United States to avoid the problem of economic stagnation due to unfavorable demographics presents Japan and Germany.<sup>10</sup> Besides demographics, immigration can better United States economic performance in the long term. To remain competitive in a global scenario, the United States needs to attract and retain foreign skilled workers. The following section of the paper will explain the recent literature on history, selection of immigration, high and low skilled immigrants and the assimilation of immigrants in the United States.

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<sup>6</sup> Gustavo López, Kristen Bialik, and Jynnah Radford, “Key Findings about United States. Immigrants.” *Pew Research Center*. (Accessed December 15, 2018).

<sup>7</sup> Ibid.

<sup>8</sup> Webster

<sup>9</sup> US Census Bureau, 2018. “Older People Projected to Outnumber Children.” The United States Census Bureau. . (Accessed December 15, 2018).

<sup>10</sup> With a population of 127 million Japan is on the verge of shrinking by about one-third in the next five decades. In addition to intensifying the financial burden on the working age population, coupled with a shrinking workforce and tax base, Japan is a recipe for economic stagnation.

The population of Germany is set to decline from 82m to 74.5m by 2050. With the increase in the aging population, pensions and health care costs are expected to grow more than the economic growth rate. See McKinsey Global Institute, "Global Growth: Can Productivity Save the Day in an Aging World?" McKinsey and Company (2015), <https://assets.mckinsey.com/~media/B07C74E1DE934BB7AD8C1E5263C6B2F8.ashx> (Accessed December 15, 2018).

### *The First Generation*

According to the DHS data series, since 1820 at least 74 million immigrants have arrived in the United States. “There are only fragmentary counts of those who returned to their countries of origin or who died without leaving any descendants, but there is little doubt that almost all Americans are the products of immigration, past or present.”<sup>11</sup> It is instructive to study the major trends and patterns that shaped and described immigrant flows in the past. In the post 1880s, the majority of immigrants was from Europe-Ireland, and Germany. During the industrial revolution (1880 to 1929), the number of immigrants from northwestern European origins reduced from 52 to 14 percent, while the numbers from Eastern and Southern Europe soared from 2 to 55 percent.<sup>12</sup> The Industrial revolution provided the labor market for unskilled workers. Low-skilled workers sought low-paying, low-status jobs that an insufficient number of Americans aspire to fill. The Immigration Act of 1917 was passed that stated reasons for immigrants’ exclusion from their entry to the United States. This legislation included a literacy test for the immigrants, which listed the personal traits that would prohibit entry into the country from southern and eastern Europe, which allegedly were sending an “alarming number of illiterates, paupers, criminals, and madmen who endangered American character and citizenship.”<sup>13</sup>

American history cannot be separated from the history of immigration, or as Handlin puts it, “immigrants were American history.”<sup>14</sup> History shows that during the nineteenth century, immigrants from Europe played a significant role in settling the frontier. Irish immigrants worked as laborers in the cities and were a major source for the construction of transportation networks such as railroads, canals, and roads.<sup>15</sup> Further, the contribution of immigrants and their descendants suggests that the major policy issue for international migration is not immigration control but, rather, the creation of opportunities for economic advancement and social integration of immigrants and their descendants.

### *The Second Generation*

Immigration effects are viewed not only on the numbers of foreign-born but also the children born in the United States. This section of the paper will review the effects of second-generation (the children of the foreign-born) over time in the United States. The children of the immigrants, if born in the United States, are considered native born by definition and under the fourteenth amendment are United States citizens. “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or

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<sup>11</sup> National Academies of Sciences, Engineering and Medicine, *The Economic and Fiscal Consequences of Immigration* (Washington, DC: The National Academies Press, 2017), 27.

<sup>12</sup> *Ibid.*, 29.

<sup>13</sup> *Ibid.*, 103.

<sup>14</sup> Alan M. Kraut, “Oscar Handlin and ‘the Idea That We Are a Nation of Immigrants,’” *Journal of American Ethnic History* (2013): 4

<sup>15</sup> Charles Hirschman, “The Impact of Immigration on American Society: Looking Backward to the Future,” *Transit* 32 (2007): 1-11.

property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”<sup>16</sup>

The era from the 1920-1960s was an important period for the integration and assimilation of the immigrants and their children into the American life. “Against the backdrop of an often-hostile reception encountered by the new immigrants stands the remarkable social and economic progress of millions of immigrants from different cultural origins during the early and middle decades of the 20<sup>th</sup> century.”<sup>17</sup> During the twentieth century, new immigrants were considered a breed apart; ethnic marriage rates were low and residential segregation levels were high. During this time Americanization movement paved way to boost naturalization rates of immigrants and broaden educational opportunity for children of immigrants. As a result, by the 1950s the children of the immigrants were well integrated with other white Americans, residential integration and ethnic intermarriage became a norm.<sup>18</sup>

There is a substantial improvement between immigrants and their children. The second-generation immigrants are doing well comparatively to the average worker in the labor market. Additionally, the superb performance of the second generation in the labor market shows that the children of immigrants are doing far better than their parents, or as Borjas puts it, “the immigrant experience has made these children (second generation of immigrants) ‘hungry’, and they have the skills that ensure success in the U.S. labor market.”<sup>19</sup>

Immigration has expanded American ethnic diversity and will continue to do so. A great source of American resilience as an immigrant-absorbing country is that assimilation has been “a two-way street, with the mainstream society gaining exposure to cultures and customs of many nations, as well as benefiting from immigrants’ high aspirations, strong families, and strong work ethic.”<sup>20</sup>

### *The Migration Decision*

International migration is a selective process, with some residents choosing to leave their country of birth and others choosing to stay. The migration decision, however, depends on how and where the immigrant would fit into the destination-country labor market and how well his/her talents and other human capital can be applied there. Borjas argued that It is useful to explain the migration decision by considering a two-country framework. This framework will help us understand the international migrant selectivity i.e. who chooses to migrate to the United States? one answer according to this model is that the immigrants from the low wage country will migrate. On average, we’d expect those who migrate to have higher expected earnings in the United States than in their home country and vice versa for those who stay.

Let’s suppose, residents of a source country (country 0) consider migrating to a host country (country 1). Assume initially the migrant decision is irreversible so that no return migration occurs. Residents of the source country face the earnings distribution:

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<sup>16</sup> Passed by Congress in 1866.

<sup>17</sup> National Academies of Sciences, Engineering and Medicine, 31.

<sup>18</sup> Ibid.

<sup>19</sup> George Borjas, *We Wanted Workers: Unraveling the Immigration Narrative*, first edition (New York: WW Norton & Company, 2016), 113.

<sup>20</sup> National Academies of Sciences, Engineering and Medicine, 59.

$$\text{Log } W_o = \mu_o + V_o, \text{ (Equation 1.1)}$$

Where  $W_o$  gives earnings in the source country;  $\mu_o$  gives the mean income, residents would earn if they stayed in the home country and the random variable  $V_o$  is independent identically distributed (i.i.d) measuring derivations from mean earnings. If the entire population of the sending country were to emigrate, the earnings distribution that this population would face in the receiving country is:

$$\text{Log } W_1 = \mu_1 + V_1, \text{ (Equation 1.2)}$$

Where  $\mu_1$  gives the mean log earnings in the host country for this particular population, and the random variable  $v_1$  is also i.i.d and normally distributed. As defined, the population mean  $\mu_1$  need not equal the mean earnings of native workers in the receiving country. The average worker in the sending country may be more or less skilled than the average worker in the receiving country. It is convenient to initially assume that the average person in both countries is equally skilled. Equation 1.1 and 1.2 describe the earning opportunities available to persons residing in the source country.<sup>21</sup>

This perspective that migration decisions are motivated mainly by wage differentials can be attributed to the theory of wages by the Nobel Prize laureate Sir John Hicks. According to Hicksian theory of migration, the workforce migration happens due to wage differences between the source and host countries: “the unbalanced distribution of capital and labor at the macro level causes inequality in wages and living conditions and leads to migration.” Migration will occur if the host country awards migrants for their particular skills and if the net earnings in the host country are higher than those in his home country.

$$\frac{\partial p}{\partial \mu_o} = - \frac{\partial \Phi}{\partial Z} \left( \frac{1}{\sigma y} \right) < 0. \text{ (Model 1.1)}^{22}$$

Model 1.1 hypothesizes that the migration rate will rise (fall) if the destination country’s mean income rises (falls), the migration rate will fall (rise) if the source country’s mean incomes rises (falls). Many evidences reported in the internal migration literature generally support the equation (1.1) i.e., when the net return to migration rises there will be a stronger incentive to migrate.<sup>23</sup>

This model suggests that individuals migrate for better economic opportunities. Additionally, the focus of migration is on utility maximization. United States mainly attracts high-

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<sup>21</sup>The immigration “decision model” is drawn from George Borjas. See George Borjas. *Immigration Economics* (Cambridge: Harvard University Press, 2014), 8-11.

<sup>22</sup> Ibid., 11.

<sup>23</sup> Borjas, *Immigration Economics*, 10.



skilled workers because they are more proficient in collecting information about job opportunities and it is easier for them to adapt in a new environment. The economic theory will explain the equilibrium sorting that takes place in this marketplace.

*Economic Theory: The Fiscal and Economic Benefits of Immigration*

The following section of the paper will use a theoretical framework to describe how and why natives economically benefit from immigration. Some studies claim that immigration has an adverse impact on the wages of natives while others show that the opposite impact is true. The economic theory of demand and supply explains a clearer story of wage effects resulted by immigration-induced supply shifts.

Economic theory implies that the impact of immigration on the labor market depends on immigrants' skills compared to those of natives. The net gains from immigration are directly dependent on the distributional wage impact. That is, the greater the loss in wages suffered by native workers, the greater the net gains to the receiving country.

New immigrants increase the total labor supply. In that regard, it is important to note that initially majority of the immigrants arrives without capital and do not receive a share of the existing capital, which remains with the native-born population. To further elaborate on the supply and demand concept of the labor market, consider the following charts:

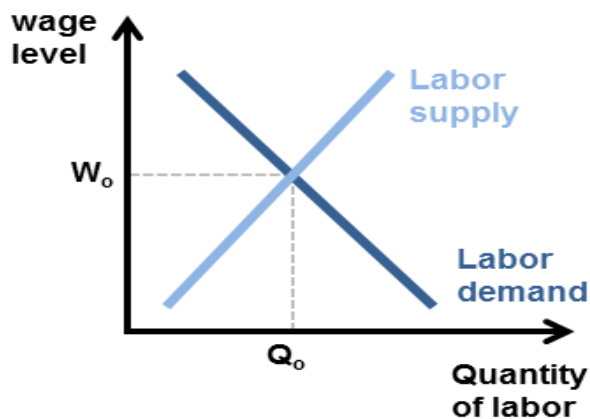


Figure 3

Figure 3: shows a pre-immigration labor market, where equilibrium occurs at wage level ( $W_0$ ) and the number of jobs ( $Q_0$ ) in the national economy.

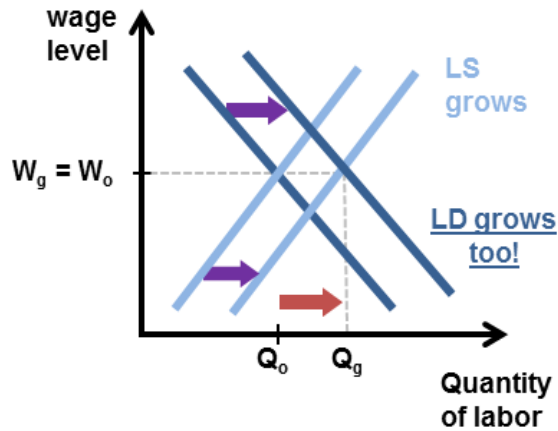


Figure 4

Figure 4 shows that immigrants increase the labor supply as well as the demand for goods. In the diagram, the wage level is unchanged while the number of new jobs is equal to the number of new immigrants. The size of the labor supply (LS) is matched by the size of the net new jobs.

Suppose the production technology for the good produced in the host country can be summarized with two inputs, capital ( $K$ ) and labor ( $L$ ), so that output  $Q = f(K, L)$ . The workforce contains  $N$  native and  $M$  immigrant workers, and all workers are perfect substitutes in production ( $L = N + M$ ). Natives own the entire capital stock in the host country and initially the supply of capital is perfectly inelastic (perfectly inelastic supply occurs when a change in price does not affect the quantity supplied). Finally, the supplies of both natives and immigrants are also perfectly inelastic. These predictions follow directly from a standard labor supply framework.<sup>24</sup>

The economic impact of immigration depends on what happens to the capital stock when immigrants enter the country. Initially, the large inflow of high-skilled and low-skilled immigrants may lower the wage or employment of natives to whom they closely substitute, but at the same time, they raise the wage of other natives and by increased return to capital. The growth in the capital stock keeps the average wage from falling.

Economic theory does not support restrictive immigration policies because first, the economy is not a zero-sum game the numbers of jobs available is infinite. Because immigrants (low-skilled, high-skilled, authorized, unauthorized) are producers and consumers, which implies that an increase in demand triggered by the expansion of the immigrant population also means an increase in total employment. The impact of immigration on relative wage of natives depends only on the elasticity of substitution between the two groups. If immigrants and natives are perfect substitutes, immigrants will have no relative wage effect. However, if the two groups are imperfect substitutes, the group that experiences larger supply shock will always experience a decline in its relative wage. Immigrants and natives bring different capabilities to the market. In all circumstances, Immigrants appear to complement the native-born workers rather than replacing them.<sup>25</sup>

<sup>24</sup> Borjas, 134

<sup>25</sup> The National Academies of Sciences, Engineering, and Medicine.

## Fiscal and Economic Impact of High and Low Skilled Immigrants

### *High-Skilled Immigrants*

This section of the paper will explain the impact of immigrants' education levels on the wages and employment of native-born populations and the overall positive impact immigration has on the United States economy.

High skilled immigrants are defined as those with a college degree or higher, and low skilled immigrants are those with lacking a high school diploma. Fifty years ago, many scientists who came to America were from Europe. Among these scientists were Albert Einstein from Germany, Enrico Fermi from Italy and Edward Teller from Austria, without whom the United States might not have been the first to build the atomic bomb. According to a 2016 report by the National Academies of Sciences, Engineering, and Medicine, from 1990 to 2004, over one-third of American scientists who had received Nobel Prizes were foreign-born. "We're the nation that just had six of our scientists and researchers win Nobel Prizes—and every one of them was an immigrant," the former President of the United States, Barack Obama, said after the Nobel Prize winners were announced.<sup>26</sup>

According to the World Bank report, the United States has the more talented immigrants than all other countries combined. In 2018, Pew Research showed that the estimated 44 million immigrants in the United States are better educated than ever. In 2016, in comparison, 17.2 percent of immigrants aged 25 or older held a bachelor's degree and another 12.8 percent held a postgraduate degree.<sup>27</sup> The presence of high-skilled immigrants exposes natives to new forms of knowledge, increasing human capital and making the native-born population more productive through increasing competition in job markets, which in turns incentivizes natives to upgrade their skills.

Modern theories of economic growth suggest that when a worker is surrounded by many high-skilled workers, that worker will become more productive. An influx of high-skilled immigrants in the United States economy certainly increases the number of ideas as well as the number of high-valued employees. National Academies of Sciences, Engineering conducted a study of immigration impact on the United States and reported that high-skilled immigrants have been integral to the national economy.<sup>28</sup> High-skilled immigrants bring with them certain to perform more effectively in the labor market and are heavily represented in the technology, medicine, engineering and sciences fields. The prospect for long-run economic growth in the United States would be considerably very low without contributions of high skilled immigrants. Highly skilled immigrants, such as Ph.Ds, scientists, and professors have high levels of productivity and are more capable of adapting to conditions in the United States.<sup>29</sup> As a result, they can have a significant positive impact on the economy.<sup>30</sup> Additionally, high-skilled workers have a positive impact on

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<sup>26</sup> Eduardo Porter, "The Danger from Low-Skilled Immigrants: Not Having Them," *The New York Times*, 8 August 2017, <https://www.nytimes.com/2017/08/08/business/economy/immigrants-skills-economy-jobs.html> (Accessed December 2018).

<sup>27</sup> Jens Manuel Krogstad and Jynnah Radford, "Education levels of U.S immigrants are on the rise." Pew Research (2018), <https://www.pewresearch.org/fact-tank/2018/09/14/education-levels-of-u-s-immigrants-are-on-the-rise/> (Accessed December 2018).

<sup>28</sup> The National Academies of Sciences, Engineering, and Medicine.

<sup>29</sup>Ibid.

<sup>30</sup>Ibid.

native wages and employment. Several studies have found a positive impact of skilled immigration on the wages and employment of both college and non-college educated natives.

Immigrants raise patenting per capita, which ultimately contributes to productive growth especially in the technology and industrial areas with higher levels of foreign-born expertise experienced much faster patent growth between 1940 and 2000, in terms of both quality and quantity.<sup>31</sup> Another report by the Penn Wharton School, showed that 76 percent of patents from America's top patent-generating universities had a large number of foreign-born authors. The study further highlighted that immigrants produce patents at double the rate of natives, and the presence of these immigrants generates positive spillover on patenting by natives.<sup>32</sup> Kerr and Lincoln's inventive and careful study examined the effect on patenting of the increased number of workers entering the United States on H1-B visas.<sup>33</sup> They suggested that the H1-B workers are indeed very likely to patent although it is not possible to determine the identifiers for patent inventors i.e. if the actual patent holder is an H1B visa holder. However, according to the data, nearly 1500 patents represented inventors from 88 different countries.<sup>34</sup>

There is no doubt that high-skilled immigration increases the number of innovators in the United States. This can be seen by the numbers of patent, companies produced by immigrants, and foreign-born Nobel prize winners. High-skill immigration generates beneficial spillovers because they expose natives to new types of expertise and knowledge, making natives more productive. Borjas suggests that these spillovers are only easily detected when the high skilled immigrants with exceptional talent work closely with the recipients.<sup>35</sup>

High-skilled immigrants earn wages that are similar to skilled natives, or maybe even a bit less. Skilled immigrants have limited impact of the wages of the native. This is intuitive given the claim that H1-B workers dampen the wage inequality. A recent study estimated that H1-B workers reduce the wages of native computer scientists by 3 percent to 5 percent, while also increasing the average wages by 0.2 percent to 0.3 percent through the larger supply of talent and greater innovation. These effects lower the wage gaps. Although the H1-B system causes some sector level displacement, the study concludes it benefits America overall through boosting average workers' wages, lowering prices of consumer goods, and increasing profits for tech firms.<sup>36</sup>

### *Low-Skilled Immigrants*

Low-skilled immigrants are referred to those who do not possess a high school diploma. An inflow of large number of low-skilled immigrants will the most likely affect the existing low-skill population (both native born and earlier immigrant arrival); however, there is no evidence that shows that low-skilled immigrants changed the labor employment rate or the wages of low skilled

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<sup>31</sup> Ufuk Akcigit, John Grigsby and Tom Nicholas, "Immigration and the Rise of American Ingenuity," *American Economic Review: Papers and Proceedings* 107, no. 5 (May 2017): 5.

<sup>32</sup> Penn Wharton Budget Model, "The Effects of Immigration on the United States' Economy," (2018), <http://budgetmodel.wharton.upenn.edu/issues/2016/1/27/the-effects-of-immigration-on-the-united-states-economy> (Accessed December 2018).

<sup>33</sup> Shai Bernstein, Rebecca Diamond, Timothy McQuade, and Beatriz Pousada, "The Contribution of High-Skilled Immigrants to Innovation in the United States," Stanford Graduate School of Business, *Working Paper No. 3748* (6 November 2018): 69.

<sup>34</sup> Bernstein *et al.*, "The Contribution of High-Skilled Immigrants to Innovation in the United States," 69.

<sup>35</sup> Borjas, *Immigration Economics*, 160.

<sup>36</sup> William R. Kerr, *The Gift of Global Talent: How Migration Shapes Business, Economy & Society* (Stanford, California: Stanford Business Books, an imprint of Stanford University Press, 2019), 152.

native. Low-skilled immigrants such as agriculture workers, cab drivers, and servers may lack the educational and technical skills that many employers demand and, hence often find it difficult to adapt. In this scenario, they may significantly increase the cost associated with income maintenance programs.<sup>37</sup>

Less educated immigrants often lack linguistic skills and gravitate towards labor-intensive jobs that many less educated native workers do not prefer. Even for the low-skilled native worker in these industries, the effects of increased competition from immigrants are ambiguous, as the majority of the native workers take advantage of their superior communication abilities in occupations like personal services and sales, where fluency becomes important.

Low-skilled immigrants are often less educated, and their incomes are lower at all ages than those of natives. Hence, immigrants pay less in federal, state, and local taxes and use federally funded entitlement programs such as Medicaid, SNAP and other benefits at higher rates than natives. However, when compared to low-income natives, low-skilled immigrants still receive a lower amount of public assistance. Additionally, when such immigrants do take public assistance, the average value of benefits received is below the average, implying a smaller net cost to the federal government relative to low-income natives.

However, immigrants often impose a heavier tax burden on natives at the states and local level. Low-skilled immigrants generally have larger families and more children using public K-12 education, the largest component of state and local budgets. Additionally, if immigrants' children are not fluent English speakers, the pre-K student cost of education may be substantially higher than for the native-born children. These factors impose short term budgetary costs. However, in the longer term, the upward economic mobility and taxpaying lifetime of second-generation immigrants more than offsets the initial fiscal burden.<sup>38</sup>

### **Fiscal Impact of Immigration**

The fiscal impact of immigration is based on the differences between the various tax contributions immigrants make to public finances and government revenues and expenditure. A recent report suggests that almost all categories of immigrants pay taxes and other payments (e.g. Social Security benefits) or public services (e.g., education or health care) and add expenditures by consuming public services. A general finding suggests that immigrants and their children are more likely to spend on education, such as learning a new language and are less likely to use programs like Medicare and social security.<sup>39</sup>

On average, individuals among first-generation immigrants are more costly to the government than are the native-born generation. However, immigrant children (the second generation) are among the strongest contributors to the Native American population. Regardless of the legality of immigrants, they are net positive contributors. Low-skilled immigrants generally have larger families and are more likely to use public K-12 education, the largest component of state and local budgets. Additionally, if immigrant children are not fluent in the English language, the cost of education is substantially higher than for native children.<sup>40</sup>

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<sup>37</sup> Borjas, *Immigration Economics*.

<sup>38</sup> Penn Wharton Budget Model.

<sup>39</sup> Ibid.

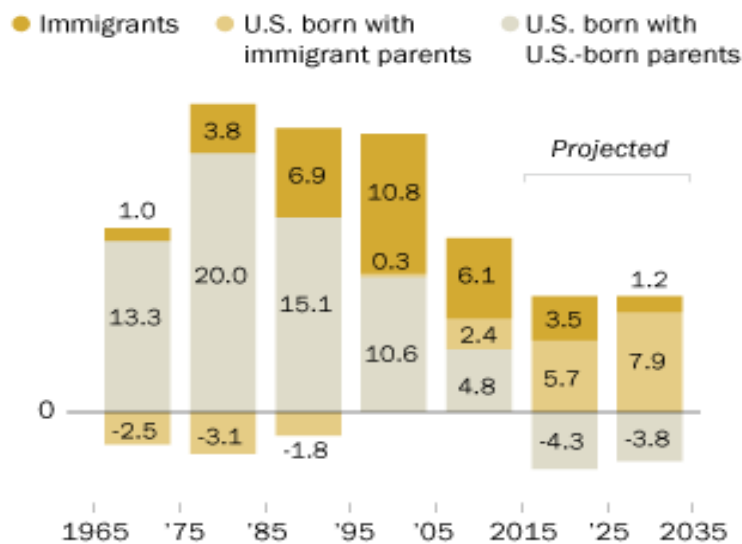
<sup>40</sup> Ibid.

The net cost to state and local governments depends on the immigrant’s education and income. For example, the net fiscal burden of immigration is smaller in New Jersey due to the high concentration of high-skilled immigrants, who contribute more to the state than they consume in public services. In contrast, California’s estimated fiscal burden of immigration is much higher for natives’ residents, because California has a higher concentration of uneducated and low-skilled immigrants.

### The Future of Immigration to the United States

This final section of the paper will review the look into the future. The future of immigration is always uncertain, mostly for immigration flows that are subject to legislative intervention. Nevertheless, this section would provide some insights into likely trends of the impact of future immigration on the population. According to the recent Census Bureau data, the foreign born in the United States grew to its highest share in over a century from 13.5 percent in 2016 up to 13.7 percent in 2017. That put the proportion of immigrants in the United States at the highest since 1910, when the total population of immigrants was only 14.7 percent.<sup>41</sup>

*Net change in working-age population (25-64) by decade, in millions*



Note: Numbers for 2015 onward are projections.  
 Source: Pew Research Center estimates for 1965-2015 based on adjusted census data; Pew Research Center projections for 2015-2035.

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Figure 6. Change in working age composition of United States population from 1960 to 2035 (projected).<sup>42</sup>The number of working age immigrants is projected to increase to 38.5 million

<sup>41</sup> US Census Bureau, “Older People Projected to Outnumber Children,” 2018.

<sup>42</sup> López *et al.*, “Key Findings about United States. Immigrants.”

by 2035. These fast-growing numbers predict that almost two-thirds of the growth projected over the next fifty years is attributed to post 1990 immigrants and their offspring. The baby boom, those Americans born from the late 1940s to the mid-1960s have been the main drivers of the nation's expanding workforce, but as large number of baby boom generation heads into retirement, the increase in the potential labor force will reduce drastically, and immigrants will play an important role in the future growth of the working-age population (though they will remain a minority).<sup>43</sup>

Recent Pew Research shows that due to the large influx of young immigrants and their families, the United States is aging relatively slowly than most other major industrialized nations and predicts that immigrants will be the heart of Americans working age population. Additionally, the current level of youthful immigration is not sufficient to completely reverse the population aging. The population share of children and youth sharply fell by 10 percentage points from 1970 to 1990 and has continued to decline.<sup>44</sup>

Hence, in a few decades, a dramatic change in demography(?) is estimated. As the ratio of the elderly working age population increases, the share of social expenditure will rise to satisfy the elderly' needs and thereby worsen public finances. The shortage of young people and a growing ratio of baby boomers are far from just an American phenomenon. This does not justify the policy for open borders, but it does mean that the United States should recognize the benefits of large-scale immigration.

## Conclusion

The research has highlighted the roles that immigrants play in the United States economy. The effects of high-skilled and low-skilled immigration on the U.S. economy are broadly positive. Immigrants, whether high or low-skilled, legal or illegal are highly unlikely to replace or reduce the wages of the native born. Although they may cause a short-term negative impact in the labor market, they may have significant long-term benefits for the native-born, pushing them to higher paying positions.

Moreover, as the baby boomers are moving into retirement age, immigration is helping to keep America young and magnifies the United States birth rate advantage over most of its competitors. While natives do bear some costs for the provision of public services to immigrants and their families, the available evidence indicates that immigration should be a significant fiscal benefit. The international demand for high-skilled foreign talents is on the rise and many countries are actively tailoring their immigration policies to encourage more STEM workers to relocate. The United States should maintain and gain a competitive advantage in a world where the most highly skilled have a choice as to where they want to live and work.

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<sup>43</sup> Ibid.

<sup>44</sup> Ibid.

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## Does Humanitarian Intervention in the Middle East Work? The Case Studies of Libya and Syria

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*Brittany Brown*

### Introduction

In the early months of 2011, political tensions caught hold like a wildfire throughout the Middle East. The people, fed up with living under the oppressive hand of their long-standing rulers, sparked a revolutionary period that would later be coined the Arab Spring. The protest of a single fruit vendor in Tunisia caused a subsequent uproar of protests in the region, creating a variety of reactions from governments—some countries experienced violent backlash, while others successfully completed a bloodless transition into democracy. As the world watched the region erupt, many countries—in particular the U.S.—wondered what role the international community would play in this transitional period. It was clear that if international action was not taken, the world might witness atrocities comparable to the genocides of the 1990s. However, what ground did the international community have to intervene? Was the intervention the best course of action? Was it even legal?

For the purpose of this paper, the case studies of Libya and Syria will be used to discuss the effectiveness of humanitarian intervention in the Middle East. Both countries suffered tremendously during the revolutions of 2011, yet in 2019 face very different circumstances from one another.

### Humanitarian Intervention and R2P

The concept of humanitarian intervention is not new, but its implementation in international law is a newly debated topic and the international community is still grappling with its effects. Which is more morally compromising: intervening in a country's sovereignty, or standing by and watching a near-genocide take place and doing nothing about it? Is it ethical for a country to risk its own military in order to protect foreigners from their own government? Humanitarian intervention brings up many controversial issues and questions, all without easy answers.

As defined by Holzgrefe, a humanitarian intervention is “the threat or use of force across state borders by a state (or group of states) aimed at prevention or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens without the permission of the state within whose territory force is applied.”<sup>1</sup> It is important to make the distinction between humanitarian intervention and direct aid: humanitarian intervention always includes military involvement, which is what makes this concept controversial. When the United Nations General Assembly passed Resolution 43/131, it enacted into practice the first version of humanitarian intervention. The aim of this resolution was “that in cases of emergency when a state is unable to assist its population, other states and/or organizations would be allowed to do so without hindrance.”<sup>2</sup>

Four years after 43/131 passed, resolution 688 passed through the United Nations Security Council (UNSC).<sup>3</sup> This resolution and its strategic timing allowed international intervention to

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<sup>1</sup> J.L. Holzgrefe, *The Humanitarian Intervention Debate* in *Humanitarian Intervention* (Cambridge: Cambridge University Press, 2003).

<sup>2</sup> Füsün Türkmen, “From Libya to Syria: The Rise and Fall of Humanitarian Intervention?” *Galatasaray University, Istanbul* (2014). <https://acuns.org/wp-content/uploads/2013/01/From-Libya-to-Syria-The-Rise-and-Fall-of-Humanitarian-Intervention.pdf>

<sup>3</sup> UNSCR, “Resolution 688,” 1991, retrieved from <http://unscr.com/en/resolutions/688>.



protect the Kurdish population in Iraq from Saddam Hussein's brutality.<sup>4</sup> This resolution was groundbreaking at the time, but it did little to prevent genocide in Kosovo and Rwanda in the subsequent decade. The first successful humanitarian intervention did not occur until the 2000s in Libya. The success of Libya would later be the model for the intervention in Syria, yet with very different outcomes.

Another important concept to understand when discussing humanitarian intervention is the Responsibility to Protect (R2P). R2P changed the conversation from the right to intervene in another country to the responsibility to do so. R2P outlines the need for military action by one state against another state, in order to protect the people living there who are being put at risk by their own state. The only time R2P would be allowed is in extreme cases that involve a major loss of life. Military intervention will only be justified in cases that resemble ethnic cleansing or genocide towards a group of people. Atrocities that do not justify international military intervention under R2P include cases of oppression, discrimination, the overthrow of a government, and other smaller scale and sometimes singular events.<sup>5</sup>

There are three main principles under which R2P operates. The first principle states that the primary purpose of the intervention should be to alleviate or halt human suffering. The second principle "envisages military intervention once that all peaceful means have been exhausted. Proportional means pertains to the proportionality between the scale and intensity of the intervention and the magnitude of the provocation." The third principle specifies that the intervention should have a reasonable prospect of success and its consequences should not be worse than that of inaction.<sup>6</sup>

### **Background: Libya**

When the revolutions of 2011 arrived on the border of Libya, it became clear to the U.S. that Moammar Gadhafi was not going to surrender his forty-two-year reign of power. The violent force he raged against his opposition—citizens of his own country—called for foreign intervention. Intervention was implemented in the form of a 222-day NATO air campaign.<sup>7</sup> Operation Odyssey Dawn began under President Barack Obama. Its goals were threefold: "the mission's operational objectives in Libya focused on stopping Gadhafi's forces from attacking civilians, forcing regime military troops back to their home bases and ensuring unrestricted humanitarian support was available for the people of Libya."<sup>8</sup>

At first, international intervention came in the form of arms embargoes, travel bans of regime members, and the freezing of the Gadhafi family assets and Libya as a whole. These restrictions were voted on by the UNSC and passed unanimously. The actions of the Libyan government and their crackdown on protesters were reported to the International Criminal Court. Condemnation by international organizations, including the European Union, African Union, and the League of Arab States, did not halt Gadhafi's actions. It was clear that the only way to stop the violence was through humanitarian intervention. On the 16th of March 2011, just months after the initial protests had begun, the UNSC passed resolution 1973, which states that:

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<sup>4</sup> Türkmen, 4.

<sup>5</sup> Türkmen, 7.

<sup>6</sup> Ibid.

<sup>7</sup> Lance Kildron, "The Libyan Model and Strategy: Why it Won't Work in Syria," *Journal of Strategic Security* 5 (4) (Winter 2012): 33-50. doi:<http://dx.doi.org/10.5038/1944-0472.5.4.3>.

<http://proxy.library.nyu.edu/login?url=https://search.proquest.com/docview/1618835226?accountid=12768>.

<sup>8</sup> Ibid., 37.

...Acting under Chapter VII of the Charter of the United Nations... (the UNSC) authorizes Member States that have notified the Secretary-General, acting nationally or through regional organizations or arrangements...to take all necessary measures...to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya...<sup>9</sup>

This was a historic moment for humanitarian intervention, and it was a breakthrough for R2P. Despite five abstaining votes on the resolution, there were no vetoes, which would have stopped this mission in its tracks. The speed at which these decisions were made was impressive; the resolution was passed just hours after it hit the table, and just hours after Gadhafi declared that he would have “no mercy and no pity” on his opposition.<sup>10</sup>

The first airstrikes, conducted by France, hit Libyan soil three days later. European NATO members and the U.S. disputed over who would assume control over the military operations. There was a sense of hesitancy over getting involved in the Middle East again after Iraq and Afghanistan, and NATO did not want to anger the European member states who did not agree with the intervention to begin with. NATO launched mission “Unified Protector,” which ended on October 31st, 2011.<sup>11</sup> The controversy around this NATO mission and the inability of an agreement to be made would later foreshadow the role of the U.S. in Libya’s post-revolutionary recovery and their constant disappointment in expecting more effort to be put forth by Europe.

In order to assess its effectiveness, it is important to acknowledge the guidelines under which this humanitarian intervention was allowed and the goals of the mission. The treatment of civilians in Libya justified the grounds for humanitarian intervention, and was a motivating factor in U.S. intervention.<sup>12</sup> Gadhafi’s regime committed brutal treatment and torture of opposition. The U.S. wanted to use this opportunity to reverse its image in the Middle East, after it had hesitated to renounce its long-term alliance to both Egypt and Tunisia. The U.S. saw this as an opportunity to correct its course and emphasize the importance of democracy in the region.<sup>13</sup> Oil, of which Libya has the largest reserves in Africa, also played a role in the decision to intervene.<sup>14</sup> It was known that the U.S. had an interest in maintaining a relationship centered around oil. If it were to be taken off of the market it would be a major hit on the world’s economy and oil supply.<sup>15</sup>

Today, many of the same concerns the U.S. had about the safety and security of the Libyan people still exist, making an easy case for why intervention was not effective. According to Türkmen, “U.S. and Libyan officials in the country’s various governing entities share concerns about remaining extremists, the weakness of state institutions, and flows of migrants, refugees, and contraband within and across Libya’s largely un-policed borders.”<sup>16</sup> It is easy to make a case that U.S. intervention failed to meet its goals, but that is only half true.

## **Background: Syria**

The events that sparked the revolutions in both Libya and Syria were similar, but the responses from each government could not have been more different. The initial protests in Syria

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<sup>9</sup> UN Security Council Resolution 1973, adopted at its 6498th meeting on 17 March 2011.

<sup>10</sup> Washington Post Editorial, “U.S.-backed measures may boost Libyan opposition,” *Washington Post*, 18 March 2011.

<sup>11</sup> Türkmen, 12.

<sup>12</sup> N.A. “Libya: Transition and U.S. Policy,” *Every CRS Report* (November 4, 2005 – May 2, 2018), <https://www.everycrsreport.com/reports/RL33142.html>.

<sup>13</sup> Türkmen, 13.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> “Libya: Transition and U.S. Policy,” *Every CRS Report*.

were met with a violent crackdown when 15 teenagers were tortured for spray painting an anti-Assad slogan in the city of Dara'a. As protests grew, nearly 8,000 civilians were murdered at the hands of President Bashar al-Assad's government.<sup>17</sup> Syria holds a history of conducting some of the worst human rights abuses in the world. Methods of punishment include torture, censorship, travel bans, detention, and forced disappearances.

The first attempt at condemning Assad's actions through the UN were vetoed by China and Russia.<sup>18</sup> All other attempts at stopping such actions, similar to the efforts made in Libya, were useless in Syria as well. In the summer after the protests began, many international organizations worked to put pressure on Assad to stop torturing his people. As each effort put through the UNSC was blocked by Russia, Syria divided into one of the bloodiest civil wars in modern history. By 2013, the United Nations had stopped updating its death toll at 100,000.<sup>19</sup>

Russia wished to allow what it saw as the legitimate government in Syria to continue ruling. The U.S. wanted to support the Syrian people in their quest to oust Assad and establish a democracy. However, early into the conflict, it became clear that Assad was not going to fall as his neighbors had done. President Obama, believing that the U.S. was too involved in the Middle East and too quick to announce military action, made decisions in Syria that are now considered controversial. One of the most infamous actions was the failure to adhere to the red line he established on Assad's use of chemical weapons.<sup>20</sup>

The fight in Syria and the involvement of international actors militarily has created a series of proxy wars and has created an entirely new enemy in the region—the Islamic State. The battleground became three-fold, as the U.S. supported rebel groups against the Russia-backed government, and against the terrorist organization ISIS. President Trump discussed removing the remaining U.S. soldiers in Syria fighting ISIS, a move which has allegedly been supported by Putin.<sup>21</sup>

When we look at Syria in 2019, we see that Assad is still in power. The death toll is an estimated half a million people, with another 11 million people forcibly displaced from their homes, either inside Syria or outside as refugees. This raises the following questions: was the intervention in Syria successful at all? Was any life saved from the actions of international intervention?

## Analysis

To define what it means for humanitarian intervention to work, Michael McCall holds that “the general consensus among scholars is that success in any case of humanitarian intervention is defined by having saved lives that would have been lost in the absence of the intervention.”<sup>22</sup> The term, still in its youth, is abstract. How do you determine how many lives would have been lost if intervention had not taken place? How do you determine how many lives have been saved as a result of intervention?

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<sup>17</sup> Türkmen, 1.

<sup>18</sup> Türkmen, 19.

<sup>19</sup> Ibid.

<sup>20</sup> Jeffery Goldberg, “The Obama Doctrine, R.I.P.,” *The Atlantic*, 7 April 2017,

<https://www.theatlantic.com/international/archive/2017/04/the-obama-doctrine-rip/522276/>.

<sup>21</sup> Neil MacFarquhar and Andrew E. Kramer, “Putin Welcomes U.S. Withdrawal From Syria as ‘Correct,’” *New York Times*, December 20, 2018. <https://www.nytimes.com/2018/12/20/world/europe/putin-trump-syria.html>.

<sup>22</sup> Michael McCall, “Determining a Successful Humanitarian Intervention,” *E-International Relations Students* (July 9, 2017), accessed March 28, 2019, <https://www.e-ir.info/2017/07/09/determining-a-successful-humanitarian-intervention/>.

Looking back to the immediate aftermath of humanitarian intervention efforts in Libya in 2011, success seemed promising. The U.S. and its allies were able to remove Gadhafi from power—though not how originally intended. Only a small amount of UN military might was used to achieve such goals, not requiring any use of ground forces.<sup>23</sup> In a statement that would later be reflected upon as eerily incorrect, Ben Rhodes claimed that the model used to intervene in Libya would be the “key to future intervention operations for the Obama Administration.”<sup>24</sup>

However, when we look at the events that have transpired since the previously mentioned interventions, the lines for success seem to blur. While the intervention in Libya was effective in stopping the immediate death toll in 2011, it has not done much to rebuild the nation. Libya remains one of the most dangerous countries in the world, with a divided government. A rushed transition to democracy failed, and some argue the country is worse off today than it was during Gadhafi’s regime.<sup>25</sup> However, quick and decisive action was successful in the short term.

As for Syria, the outcome was unsuccessful in both the immediate aftermath and the time that has since passed. The indecisive action on the part of the UNSC and the disagreements that led to the proxy war have only heightened the death toll in the region. The only noted success was the temporary halting of chemical weapons, and although it was short lived, “it was not a complete failure, in that stockpiles were indeed removed, but Assad kept enough of these weapons to allow him to continue murdering civilians with sarin gas. The argument that Obama achieved comprehensive WMD (weapons of mass destruction) disarmament without going to war is no longer, as they say in Washington, operative.”<sup>26</sup>

Humanitarian intervention is not something that should be issued without the intentions to follow through, and it is not a decision that should be made hesitantly. To successfully carry out the principles of R2P, the decisions to intervene must be made quickly, thoroughly, and, above all, carefully. Fear of the past should never dictate the decisions of the future.

The outcome of Libya dictated the decisions that were made for Syria. Evidence of this can be found in Russia’s inconsistent UNSC votes. The decision to intervene humanitarily was first voted unanimously for Libya, but once the destruction unfolded, and the world watched Gadhafi’s gruesome assassination, they felt changes needed to be made in the next intervention. “Furthermore, Russia has vetoed any resolution by the Security Council [...] seeking to invoke military intervention in Syria for fear of regime change. President Putin drew a perfect comparison with Libya where NATO used humanitarian concerns as an excuse to dislodge Colonel Gaddafi from power only to leave behind a failed and fractured state.”<sup>27</sup>

Humanitarian intervention in the Middle East can be successful in meeting immediate goals, but international actors will do little to help the country in its long-term recovery. If the goal of the intervention is to see the country through a democratic transition, the potential for success is bleak. It would be nearly impossible to cite any intervention that did not involve self-interested motives, but selfish reasoning does not always constitute a failed mission. Humanitarian intervention in the

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<sup>23</sup> Ibid.

<sup>24</sup> Kildron. 38.

<sup>25</sup> U.S. Department of State, “Libya Travel Advisory,” *Travel Advisories*, 9 April 2019, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/libya-travel-advisory.html>.

<sup>26</sup> Goldberg.

<sup>27</sup> Lutta, Joseph. 2018. “How Russian Intervention in Syria Redefined the Right to Protect in Armed Conflict.” *Russian Law Journal* 6, no. 2 (April 2018): 4–38. doi:10.17589/2309-8678-2018-6-2-4-38.

Middle East has the potential to be effective as long as its goals are short-term and carried out to the full extent.

### **Conclusion**

Humanitarian intervention could work if each country is treated on a case by case basis. If goals are realistic and outcomes are thought out, the Middle East could one day witness an intervention that could outshine Libya, a feat not all that difficult. Humanitarian intervention has the potential to be a great thing, but only when applied with great intentions and even better follow through.

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## The Forging of a Hungarian ‘Strongman’: 1956 to the Present

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Leonardo Dinic

The values of the European Union decline throughout East-Central Europe, as populists promote illiberal political models centered on sovereignty, tradition, and pragmatism across the continent. In countries like Hungary, interpretations of past foreign influence proliferate nationalist sentiments and add to a pre-existing culture of mistrust. Increased suspicion of external pressures developed an intense longing for a ‘homegrown strongman’ in Hungarian society. People feel nostalgia for the stability and predictability of the communist era and find perceived safety and solidarity in Prime Minister Viktor Orbán’s Fidesz. The collective history of the 1956 revolution, its failures, and the roles of both Washington and Moscow fermented a sense of voluntary Hungarian isolation. For many of the citizens who lived through the uprising, the idealistic but uncommitted Eisenhower administration stood idly by as Moscow mercilessly crushed a popular democratic movement within a miserable Soviet colony.

In assessing the 1956 uprising in the context of today’s political environment, one must question the Hungarian collective memory and how it develops as more information is made available.<sup>1</sup> Operationalized populism creates a Manichean ‘us versus them’ narrative. Given the circumstances, ambitious and suspicious politicians can cite the interference of US media instruments in the 1956 revolution, and apply similar logic to European Union meddling in Hungarian economic or immigration policy. Also, to interpret the past in the present Hungarian situation, one must interrogate the significance of Cold War geopolitical strategy since the Yalta Conference. The grand strategy and policies of both US officials and their Russian counterparts pushed the 1956 revolution toward zero-sum aspirations rather than reformative policy, ultimately contributing to the development of nationalist and populist sentiments. Hungarian culture, its perceived past political injustices, Hungary’s interactions with foreign powers, and the politics of democratic Hungary since 1989 are central in understanding developments since 1956.

This paper argues that Orbán’s populism is a product of the overall Hungarian experience. It goes on to claim that the failures of the 1956 revolution, newly illuminated through the availability of US and Soviet policy documents, are a central part of the Hungarian identity during a time of overall European crisis, sparked by societal irritants like the 2008 recession and the ongoing migrant crisis. As emphasized by Charles Gati in *Failed Illusions: Moscow, Washington, Budapest, and the 1956 Hungarian Revolt*, events like the Hungarian Uprising of 1956 reveal the less visible forces of geopolitics and ideology which influence the experiences of regular people during periods of revolution. The prevalence of such external forces and their effects in crucial historical events leaves impressions upon the domestic citizenry for decades to come. For Hungary, the behavior of both Washington and Moscow during the 1956 uprising resulted in a legacy of defensiveness and defiance which contributed to the rise of Orbánism and the successes of Fidesz.

Since the end of the Cold War, declassified archives reveal that American and Soviet interests were not always clearly defined, and their actions in Hungary in 1956 shifted public opinion in ways that rejected aspirations for modest reform and negotiations between nationalists and the Kremlin. On the eve of the revolution, a majority of Hungarians supported reforming the system, rather than abolishing it.<sup>2</sup> The revolutionaries, aroused by Western propaganda, revolted

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<sup>1</sup> For example, the ruling Fidesz regime can cite the Radio Free Europe-era (RFE) as previous Western meddling in Hungarian politics to delegitimize the goals of NGOs or the George Soros-funded Central European University.

<sup>2</sup> Charles Gati, *Failed Illusions: Moscow, Washington, Budapest, and the 1956 Hungarian Revolt* (Washington DC: Wilson Center Press, 2008), 3-4.

against the Kremlin with little consideration for reform and were subsequently crushed by the Soviet military. Gati argues that failure was not the only option, and that with an open mind and sincere desire for negotiation, the uprising could have ushered in responsible reform which would have contributed to a more effective, sensible, and forward-looking political transition, ultimately better preparing Hungary for the future. As Gati summarizes, “a greater dose of realism in 1956 could have made a difference.”<sup>3</sup> From the US perspective, President Eisenhower decided not to intervene because he felt that Hungary represented little strategic importance, but also because he feared it might provoke a nuclear reaction from Moscow.<sup>4</sup>

It is naïve to assume that Hungary’s Soviet experience did not play a role in the formulations of contemporary illiberal democracy, championed by Prime Minister Viktor Orbán, or heightened Hungarian nationalism in general. Soviet occupation added to an already skeptical Hungarian attitude toward foreign influence, as Orbán reiterated on March 15, 2011, on the national holiday commemorating the Hungarian Revolution of 1848, “Hungary is not a colony... after the occupation of the country by the Turks, the Habsburgs, and the Russians, will not itself be oppressed by Brussels.”<sup>5</sup> No single quotation illustrated Orbán’s position more clearly: the European Union, an external force on par with the Turks, Hapsburgs, and Russians, will not diminish the importance of Hungary’s religious and national sovereignty. Orbán will consolidate power and act in the national interest to reform the EU from within and construct a Hungarian polity which serves as an illiberal option in the heart of Europe.

The analysis covers several topics which contributed to Orbán’s political rise and Hungary’s current political situation. First, it will present an introduction to Orbán’s populist approaches with a specific focus on how Fidesz interacts with Hungarian history and cultural trends. Second, it will outline a brief history of the 1956 revolution and its significance to Orbán’s populist formulations. Third, it will address the events and legacies associated with the geopolitical competition between the US and the Soviet Union during the 1950s; this competition added to a general Hungarian suspicion of foreign actors, which indirectly supports arguments made by contemporary populists and Eurosceptics. Fourth, it will provide a history of Orbán’s political career with the variables above in mind. Finally, the analysis will provide a discussion about Fidesz as a threat to European stability and the effects of illiberal democracy on the European project of integration.

## Populists Armed with the Past

When assessing European anxieties associated with the migrant crisis, analysts and politicians provide examples of states where illegal immigration resulted in increased criminality, the decline of economic and employment opportunities for the native population, and the erosion of national identity. Right-wing populists point to terrorist attacks or societal conflict in France or Sweden and warn, “if we don’t do something about the incoming instability, we will end up in ruins!” Prime Minister Orbán employs this approach in the triadic fashion described by John B. Judis in his book *The Populist Explosion: How the Great Recession Transformed American and European*

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<sup>3</sup> Ibid., 22.

<sup>4</sup> However, the US waged psychological warfare with mechanisms like RFE to delegitimize Soviet communism. In response, the Soviets invaded Hungary to quell a rebellion that could potentially damage its influence over more strategic Warsaw Pact states, risking regional revolt.

<sup>5</sup> Paul Lendvai, *Orbán: Hungary’s Strongman* (Oxford: Oxford University Press, 2018), 114.

*Politics*.<sup>6</sup> First, Orbán identifies the people he defends and serves, represented by the native-born Hungarians of Christian backgrounds who prioritize family and national identity above the liberal values of the EU. Second, Orbán designates an established elite—more specifically, a cabal of human rights advocates and NGOs acting on behalf of Brussels bureaucrats. Third, he distinguishes the last angle of the triangle, which represents a group coddled by elites who serve the purpose of eroding the fundamental concept of the nation-state on behalf of the very same elites. More simply, officials in Brussels support an open-door policy for millions of migrants who import “criminality, terrorism, homophobia, and anti-Semitism,” with the goal of destroying the European culture and Christian traditions associated with Hungary’s national identity.<sup>7</sup> The mobilization of this populist mythology is effective in Hungary, likely because of its troubling national past. Keep in mind that Hungary is not experiencing a migrant crisis. Less than 2% of the country’s population is made up of immigrants.<sup>8</sup> Therefore, Orbán’s strict policies are not reacting to a problem; instead, they are designed to prevent migration into Hungary from outside of the EU. Seventy-eight percent of Hungarians questioned in a May 2017 Eurobarometer survey stated that they felt negatively about immigration from outside the European Union.

Preventive policies concerning EU influence and the migrant crisis are rooted in past national insecurities and catastrophes. For example, Lendvai emphasizes the Magyar fears “of a slow death for a small nation and the loneliness of a people with a language unique across the Carpathian Basin.”<sup>9</sup> Sándor Petőfi, Hungary’s national poet, expressed that “we are the most forsaken of all peoples on the Earth,” a sentiment of national defenselessness and pessimism.<sup>10</sup> The Hungarians experienced a long list of past catastrophes, which include the Mongol invasion in 1241, the defeat at Mohács in 1526 and the subsequent Turkish occupation, the joint Austrian and Russian crushing of the 1848-1849 national uprising, the separation of the Hungarian people with the Treaty of Trianon in 1920, communist rule after the Second World War, the suppression of the October Uprising in 1956, and the formation and establishment of the Soviet-influenced puppet government of János Kádár until 1989.<sup>11</sup> To Orbán and his followers, the migrant crisis is yet another test of national competence, defended against with politics that serve the Hungarian national interest. András Láncki, president of a controversial Fidesz think tank, once stated that “if something is done in the national interest, then it is not corruption.”<sup>12</sup> This proposition is central to Orbánism and runs in contrast to the professed values of the European Union because it allows for prudent executive to make decisions with little deliberation or outside approval.

Péter Tölgyessy, a conservative political analyst, attributes the lack of support for European solidarity and Hungary’s voluntary cultural isolation to the 1920 Treaty of Trianon, which allotted the new independent Kingdom of Hungary only 93,000 of the 282,000 square kilometers of the old kingdom, and 7.6 million inhabitants of the prewar population of 20.9 million (in an effort to grant self-determination to Hungary’s Slavic and Romanian neighbors after WWI).<sup>13</sup> Hungarians on both

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<sup>6</sup> John B. Judis, *The Populist Explosion: How the Great Recession Transformed American and European Politics* (Columbia Global Reports, 2017), 15-17.

<sup>7</sup> Lendvai, *Orbán: Hungary’s Strongman*, 203.

<sup>8</sup> Andre Tartar, “How the Populist Right Is Redrawing the Map of Europe,” *Bloomberg*, December 11, 2017, <https://www.bloomberg.com/graphics/2017-europe-populist-right/>.

<sup>9</sup> Lendvai, *Orbán: Hungary’s Strongman*, 112.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid., 151.

<sup>13</sup> Paul Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy* (Princeton: Princeton University Press, 2008), 25-26; 194.



sides of the borders sought to revise the treaty, and orchestrators of the WWII alliance with the Third Reich hoped to establish the pre-1920s boundaries with Hitler's help.<sup>14</sup> Virtually all historians studying the 1956 revolution and the rise of Orbán attribute vital importance to the Treaty of Trianon and the Hungarian feelings of injustice surrounding it.

The Fidesz party's focus on past injustices bolsters preventive politics in the present, but Lendvai also makes the (perhaps unpopular) point that "the corruption prevalent in [Hungarian] daily life, in the economy and in society is in no way a product of the Orbán era," and is in fact, a result of the Turkish occupation and the early years of the Dual Monarchy.<sup>15</sup> Orbán is frequently portrayed, especially in the West, as a *Putinesque* character who is solely responsible for the degradation of Hungarian democracy and rule of law. However, his politics seem to be in implicit agreement with the Hungarian political culture developed in the twentieth century, which appears to value decisive, aggressive, nationalist, and predictable leadership. Even corruption, a societal sin often associated with Orbán and Fidesz, seems to be accepted by Hungarians. Comparative surveys indicate that only 30% of Hungarians would report a case of corruption to authorities, and 69% of those questioned in 2014 regarded their government as corrupt.<sup>16</sup> This is not the case in countries like Germany, or even neighboring Romania, where 90% and 59%, respectively, of those questioned said they would report corruption.<sup>17</sup> The truth is that both corruption and the proclivity to reject European integration and foreign migrants are not products of Orbán, but trends prevalent in Hungary and most of East-Central Europe, which Fidesz cunningly leverages to its political advantage.

Unfortunately, the construction of hundreds of kilometers of fence along the border with Serbia and Croatia and strict positions on migrants are popular policies in Hungary.<sup>18</sup> A poll conducted in September 2015 indicated that two-thirds of those questioned supported the fence, 79% supported harsher treatment of asylum seekers, and 41% advocated for the use of weapons against illegal immigrants along the border.<sup>19</sup> During the same month, Orbán's popularity rose from 43% to 48%.<sup>20</sup> In 2016, an American Pew Research Center poll conducted in ten European countries found that 76% of those questioned worried about a terrorist attack and 82% feared that refugees would take employment opportunities away from native Hungarians.<sup>21</sup> The statistics also placed Hungary at the top of the list for the expression of anti-Muslim sentiment. Greece only polled higher than Hungary in anti-Semitic and anti-Roma sentiment.<sup>22</sup> Given Hungary's history, the statistics presented, and the overwhelming successes and popularity of Fidesz, it is clear that the country's illiberal tendencies are not the making of one single man or party. What seems to be occurring is something reminiscent: a nation economically and politically dependent on great powers, with a collective sense of embarrassment, grasping to nationalism as a defense against the alleged foreign intrusion on its identity.

On June 16, 1989, a monumental funeral service took place at Heroes' Square in Budapest in front of 250,000 people.<sup>23</sup> Five coffins lay containing the remains of Prime Minister Imre Nagy,

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<sup>14</sup> Ibid., 26.

<sup>15</sup> Lendvai, *Orbán: Hungary's Strongman*, 173.

<sup>16</sup> Ibid..

<sup>17</sup> Ibid.

<sup>18</sup> Ibid., 192.

<sup>19</sup> Ibid., 193.

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid., 8.

the inadvertent leader of the 1956 uprising, and his four associates, who were executed thirty-one years earlier. A sixth casket represented the 300 freedom fighters killed in the 1956 October Revolt.<sup>24</sup> The final speech of the day, given by an unknown young man, demanded “an end to the communist dictatorship” and free elections.<sup>25</sup> He stated, “if we have not lost sight of the ideas of 1956, we will vote for a government which will at once enter into negotiations on the immediate beginning of the withdrawal of Russian troops. If we are courageous enough, then, but only then, we can fulfill the will of our revolution.” That twenty-six-year-old man was Viktor Orbán, an aspiring politician who began his career looking to the 1956 uprising for inspiration.<sup>26</sup>

### **A Brief Description of the Hungarian Revolution of 1956**

The Kremlin reappointed Imre Nagy to the position of Prime Minister on October 24, 1956, in the midst of student demonstrations and a siege of the Budapest Radio Building, which demonstrators sought to control with the hopes of broadcasting their Sixteen Demands to the Soviet occupiers of Hungary.<sup>27</sup> Though previously labeled a deviationist and purged from the Communist Party, Imre Nagy represented a post-Stalinist and reform-minded ‘New Course’ approach to national communism and became popular among the insurgents, despite his previous ties to the NKVD—The People's Commissariat for Internal Affairs (*Народный комиссариат внутренних дел*).<sup>28</sup> Nagy’s NKVD past worried Republicans in Washington and angered right-leaning Hungarians, who did not differentiate between Stalinists, Titoists, reformed communists, and socialists. It was believed that once a communist, always a communist, and while Nagy would transform his political views significantly, his previous views and actions tarnished his reputation in the eyes of the staff at Radio Free Europe’s (RFE) Hungary division.

The Kremlin hoped Nagy’s reappointment would reign in revolutionary violence and the protestors’ excessive demands. Unfortunately, after failing to regain control of the uprising, Ernő Gerő, the first secretary of the Hungarian Communist Party, bypassed Nagy and called in Soviet troops to intervene and establish stability on October 23, 1956. After days of fighting, a ceasefire emerged on October 28, and negotiations with the Soviets developed a potential program which would include significant concessions, specifically: defining the uprising as a national and democratic movement, providing general amnesty to the insurgents, dissolving the State Protection Authority (*Államvédelmi Hatóság* or *ÁVH*), initiating the withdrawal of Soviet troops, reintroducing the Kossuth coat of arms as the national emblem, and designating March 15—the day of the Hungarian Revolution of 1848—a holiday.<sup>29</sup> The list resembled many of the demands made by the student demonstrators in their Sixteen Points, but it did not mention a multi-party system or free elections.<sup>30</sup> The Soviets would not budge on such requests.

By October 30, most Soviet troops withdrew from Budapest to the Hungarian countryside. However, on the same day, rumors circulated that the Budapest Hungarian Working People’s Party headquarters served as a secret ÁVH interrogation and torture site.<sup>31</sup> The protesters attacked the guards of the building, an event that would be remembered as the lynch justice of Republic Square,

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<sup>24</sup> Ibid.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Gati, *Failed Illusions*, 1 – 5.

<sup>28</sup> Ibid., 27 – 28.

<sup>29</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 84.

<sup>30</sup> Ibid.

<sup>31</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 105-106.

in which protesters lynched thirty-seven ÁVH officers, soldiers, policemen, and regular army soldiers.<sup>32</sup> In response to this event, the Kremlin abandoned gains made through negotiations with the Nagy government and initiated the second Soviet intervention on November 1, 1956.<sup>33</sup> The Soviets attacked Budapest on November 4, and in response, perhaps in vain, Imre Nagy renounced the Warsaw Pact and declared Hungary's neutrality before taking refuge in the Yugoslav embassy to avoid Soviet arrest.<sup>34</sup> In the meantime, the Kremlin, with their Hungarian intermediaries, formed the Hungarian Socialist Workers' Party under its leader, Prime Minister Janos Kádár, on November 1 in Moscow, though all documents listed the city of formation as Budapest.<sup>35</sup>

Kádár was sworn in on November 7, and the resistance was brutally crushed by November 9. In June 1958, after being betrayed by the Yugoslav government, transported to Romania, and rearrested and relocated to Budapest, Imre Nagy, along with Pál Maléter (Nagy's Defense Minister) and Miklós Gimes (a founder of a revolutionary newspaper) were tried and executed for their roles in the uprising.<sup>36</sup> Nagy would not be rehabilitated and reburied until 1989, on the day of Orbán's first national speech.<sup>37</sup>

### **Hungary: A Thorn in the Soviet Side**

The Hungarian Revolution of 1956 represented the first significant instance of armed defiance by a satellite state against the Soviet Union in post-war Europe. Though inspired by the Polish workers' uprisings for reform in Poznan in June of 1956, the Hungarian revolutionaries were nationalist, anti-Soviet, anti-Russian, but not anti-socialist.<sup>38</sup> However, while the Poles settled for moderate reform through negotiations with the Kremlin, the Budapest insurgents pushed for maximalist demands of independence, free elections, and the complete withdrawal of Soviet forces from Hungary, among other requests that the Kremlin would not accommodate.<sup>39</sup>

As early as 1945, it was clear that the Soviet-subsidized Communist Party would struggle without increased support or the removal of opposition. In the November elections of the same year, the communists received 17% while the anti-communist Smallholder's Party won 57%.<sup>40</sup> From 1947 to Stalin's death, Hungarians experienced the nationalization of factories and trade, substantial defense expenditures, irrational investment in heavy industries, forced collectivization under the brutal Rákosi Mátyás, the purge of hundreds or thousands of loyal communists who were accused of participating in anti-people conspiracies or spying on behalf of the US or Yugoslavian governments, the liquidation of other political parties, and the expulsion of ethnic Germans.<sup>41</sup>

According to Gati, no other Central or Eastern European population met the degree of terror experienced in Hungary.<sup>42</sup> Stalin's death brought forth change through the Soviet New Course, which sought peaceful coexistence with the West, reconciliation with Yugoslavia, political

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<sup>32</sup> Ibid., 105.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid., Chronology.

<sup>35</sup> Ibid., 159.

<sup>36</sup> Ibid., Chronology.

<sup>37</sup> Ibid.

<sup>38</sup> Gati, *Failed Illusions*, 3.

<sup>39</sup> Ibid., 145.

<sup>40</sup> Ibid., 41.

<sup>41</sup> Gati, *Failed Illusions*, 48-49; Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 25.

<sup>42</sup> Ibid., 49-50.

and economic penetration of the Third World, and a modified relationship with its satellite states.<sup>43</sup> Concerning the Eastern Bloc, reform included the lightening of repressive measures, reduction of mass terror, amnesty for political prisoners, cuts in heavy industry, reductions in defense spending, increased output for consumer goods, termination of forced collectivization, and changes in executive political personnel. All of these adjustments applied to Hungary directly, but Hungarian rebels, especially in Budapest, looked to remove the Soviet yolk by force instead.<sup>44</sup>

Charles Gati, who fled the revolt in 1956, emphasizes four points historians often disregard in analyzing the uprising, due to the previous inaccessibility of secret archives. First, the revolutionaries initially did not reject the socialist system, but sought to reform it. During the early days of the revolution, before the radical influence of RFE peaked, most Hungarians supported a 'Polish solution' to the crisis or a Titoist alternative. The Kremlin would have likely given in to such demands in due time. Western propaganda and its psychological warfare directly agitated the rebels' responses to Soviet occupation in a futile and senseless effort to abandon negotiation and liberate Hungary by force. Walter Lippmann argued against violent rebellion as it unfolded, stating that, "in the interest of peace and freedom—freedom from both despotism and anarchy—we must hope that for a time, not forever but for a time, the uprising in the satellite orbit will be stabilized at Titoism."<sup>45</sup> Orbán and Fidesz followers look to the empty Western encouragement of 1956 and the brutal Soviet response with humiliation and hope to prevent such foreign meddling, influence, and occupation from occurring again.

Second, the revolution itself lacked effective and decisive leadership in dealing with the Soviets. Prime Minister Imre Nagy became the obvious choice to lead the revolution but failed to consolidate power and reign in the chaos of the uprising, which ultimately led to the second Soviet intervention.<sup>46</sup> Also, Nagy hesitated for days before finally allying himself with the rebels. Nagy's indecisiveness runs in contrast to Orbán's political tact. While Nagy seemed lost in a spiraling crisis, Orbán portrays himself as firmly in control of the nation's fate, despite external efforts to undermine its sovereignty.

Third, Gati maintains that Soviet leadership was not "trigger happy," but that the revolutionaries pushed their luck through unacceptable demands.<sup>47</sup> The previous year, the Soviets pulled their troops from Austria, which resulted in Austrian neutrality, pluralism, and free-market economics, and in February 1956, Khrushchev denounced Stalin at the infamous Twentieth Congress of the Communist Party of the Soviet Union. The Yugoslav rapprochement, an effort of Khrushchev and Molotov to correct an egregious wrong made by Stalin also influenced the Kremlin's decisions.<sup>48</sup> However, the rebels likely perceived all of these developments as signs of Soviet weakness, and in combination with the psychological warfare of the Eisenhower administration and propaganda broadcasted by RFE, further eliminated the prospects for moderate reform.<sup>49</sup> These developments equally signal that even in 1956, Hungarians despised any foreign

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<sup>43</sup> Csaba Békés, "East Central Europe, 1953–1956," Chapter 16 in *The Cambridge History of the Cold War*, edited by Melvyn P. Leffler and Odd Arne Westad, 334–339.

<sup>44</sup> *Ibid.*, 339.

<sup>45</sup> Gati, *Failed Illusions*, 205.

<sup>46</sup> *Ibid.*, 4.

<sup>47</sup> *Ibid.*, 4–5.

<sup>48</sup> Vojtech Mastny, "Soviet Foreign Policy, 1953–1962," in *The Cambridge History of the Cold War*, edited by Melvyn P. Leffler and Odd Arne Westad (Cambridge: Cambridge University Press, 2010), 320–321.

<sup>49</sup> Gati, *Failed Illusions*, 5–6.

meddling in domestic affairs, while the Soviets desperately attempted to keep Hungary in the Soviet camp at all costs.

Interestingly, the words of Alexis de Tocqueville seemed ever so relevant to the Soviet politics of 1956: “Experience teaches us that, generally speaking, the most perilous moment for a bad government is one when it tries to mend its ways. Patiently endured so long as it seemed beyond redress, a grievance comes to appear intolerable once the possibility of removing it crosses men’s minds.”<sup>50</sup> In truth, the Kremlin could not afford armed revolution within its empire, and as Gati emphasizes, the Soviets preferred peaceful means.<sup>51</sup> However, when the Nagy government failed to limit excessive demands for free elections and the multi-party system, and Marshall Tito in Yugoslavia pushed for the military establishment of János Kádár, Khrushchev and the Politburo changed their mind and again rolled tanks into Budapest.<sup>52</sup> Khrushchev told all relevant parties of his change of heart. The Soviets informed the Czechs, Romanians, Bulgarians, and the Chinese, who disagreed with intervention when Khrushchev had chosen peace but supported it when he changed his mind.<sup>53</sup>

Fourth, the United States, while supportive of provocative propaganda, was both uninformed and misinformed about the prospects for change. Documents made available to Gati in 2005 indicate that the Eisenhower administration did not anticipate an armed uprising in Hungary and that, in the 1950s, the CIA assigned the lowest possible priority to Hungary in comparison with other Soviet satellites.<sup>54</sup> Also, most information provided to US intelligence officers came from pro-fascist exiles in West Germany and Austria, who did not distinguish between reform-minded communists like Prime Minister Nagy and Stalinists like the unpopular former Prime Minister Mátyás Rákosi, whom the Kremlin replaced with Nagy in 1956 to please Tito and other reformists.<sup>55</sup> Again, Hungarian politics in 1956 shifted with the whims of both the Western and Eastern political camps, a direct insult to national sovereignty and identity.

### **The US and NATO: No Action, Talk Only**

As early as 1948 and throughout the 1950s, George Kennan, and later Secretary of State John Foster Dulles, considered supporting national communism and Titoist systems in East-Central Europe to diminish Soviet influence, but a policy of rollback and liberation prevailed instead to satisfy the far-right wing of the Republican Party led by Senator Joseph McCarthy and to be perceived as more tough on communism than the Democrats.<sup>56</sup> However, rollback and liberation, concerning Hungary, consisted only of rhetoric. There were more Hungarian spies and agents stationed in Western Europe than American intelligence officers focused on Hungary at the time, and RFE was the only tool of US policy. RFE irresponsibly pursued an intense anti-communist approach to the crisis and labeled Nagy a Kremlin stooge, which severely damaged his influence. According to Gati, the United States and its allies were “long on words and short on deeds—in place was ‘NATO’ of a different kind: No Action, Talk Only.”<sup>57</sup> Gati further argues that:

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<sup>50</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 43.

<sup>51</sup> Gati, *Failed Illusions*, 4-5.

<sup>52</sup> *Ibid.*, 5-6.

<sup>53</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 121 – 122.

<sup>54</sup> Gati, *Failed Illusions*, 5-6.

<sup>55</sup> *Ibid.*, 6-11.

<sup>56</sup> *Ibid.*, 2-3.

<sup>57</sup> Gati, *Failed Illusions*, 112.

RFE should have cautiously supported Nagy's reformist course in 1953-55 but did not; it should have enthusiastically, and with great effect, supported Nagy during the second week of the revolt but did not. RFE failed to encourage a gradualist, "Titoist," or simply anti-Stalinist outcome that had a chance, however slim, to succeed; instead, it egged on the most radical insurgent groups to fight on until all their demands were met.<sup>58</sup>

RFE ran its fervent attacks on communism and spread a hopeful message twenty-four hours a day, and was accessible and popular among large segments of the population. Its right-leaning staff discussed the Soviet exploitation of Hungarian uranium and Hungary's inevitable liberation and freedom.<sup>59</sup> In sum, RFE promoted a suicidal approach to the question of independence. Its naïve, simple, and radical commentary provoked a Hungarian side which ruined reasonable negotiations with the Kremlin and led to the bloody suppression of early November. Even worse, RFE was known to exaggerate, did not recognize moderate reform or a Titoist solution, and demonized Imre Nagy relentlessly.<sup>60</sup>

The extent to which RFE influenced Hungarians is remarkable. When RFE's pollsters interviewed refugees fleeing Hungary, virtually all of them expected some assistance after the second Soviet intervention. Twenty percent hoped for US help, 48% anticipated aid from the United Nations, and the remaining respondents stated they expected support from the "free world."<sup>61</sup> Another survey of Hungarian refugees in Austria revealed that 96% of respondents expected backing from the United States, and 77% believed it would be in the form of military support.<sup>62</sup> Once again, this is the result of a designed effort by RFE to radicalize a Hungarian population toward unsuccessful rebellion. The same RFE labeled Prime Minister Nagy, a man caught in the whirlwind of history, as the "murderer of the people."<sup>63</sup>

## US Disinterest and Soviet Obsession

Regarding geopolitics, US policy was disinterested while the Soviets considered the 1956 revolution a potential disaster for the Warsaw Pact. While the simultaneously occurring Suez Crisis frustrated Eisenhower, it did not contribute to Soviet decisions.<sup>64</sup> Gati elaborates on the Suez Crisis and suggests that:

It cannot be inferred from the declassified record of secret deliberations now, whether the emerging "Suez Crisis" made much of a difference in the end... Washington never had any plans under consideration to engage Moscow diplomatically or otherwise with respect to Hungary... As for the Soviet leaders, they appeared unaware at first of the division in Western ranks concerning the Suez crisis.<sup>65</sup>

Paul Lendvai, mostly following Gati's views, also states that

With the relevant archival resources at our disposal, we can unreservedly agree with the analysis of Csaba Békés, according to which, despite all the internal debates, in all likelihood

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<sup>58</sup> Ibid., 6.

<sup>59</sup> Ibid., 69-70.

<sup>60</sup> Ibid.

<sup>61</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 185.

<sup>62</sup> Ibid., 185.

<sup>63</sup> Ibid., 186-187.

<sup>64</sup> Gati, *Failed Illusions*, 180.

<sup>65</sup> Ibid.

the Soviet troops would have been deployed to crush the Hungarian uprising even without the Suez events, as they did twelve years later against the Czechoslovak reformers. Still, the Suez crisis did benefit the Soviet action politically and from a propaganda point of view.<sup>66</sup>

In reality, the prospect of a neutral Hungary with a multiparty system allied with Austria or Yugoslavia frightened the Kremlin most. Khrushchev could accept reform if it tied Hungary's future to the USSR and reinforced the unity of the Eastern Bloc. Had Nagy negotiated with the promise of a viable socialist future, it is likely that the Kremlin would have allowed for a Polish or Yugoslav scenario in which a tight alliance with the Soviets remained.

As mentioned by Gati, the Kremlin only seemed to intervene in strategically significant satellites, specifically East Germany in 1953 and Czechoslovakia in 1968. Note that the Kremlin avoided military coercion in Yugoslavia, Poland, Albania, and Romania, where united communists defied Soviet instructions.<sup>67</sup> It is likely that the final straw for Khrushchev occurred after the atrocities at Republic Square and the suspicions that Nagy would push for a multiparty system, from which he deduced that the killing of communist officials warranted a military response. For the sake of preserving order within the Soviet orbit, free elections were simply unacceptable. Novelist of Hungarian descent, Michael Korda, suggests that Hungary represented a sort of geographical importance due to its border with neutral Austria. In short, he posits that if Hungary fell to the West, it would push the bloc's boundaries back to the Ukraine, threatening its strength as a buffer.<sup>68</sup>

In terms of the US hypocrisy, reinforced by RFE's radical and unrealistic provocations, which stirred up excessive demands and subsequent violence against Soviet troops and Hungarian communists, "American officials from President Eisenhower to the Central Intelligence Agency's Frank Wisner to RFE's William Griffith were all deeply and sincerely surprised and disappointed when their words of hope did not deliver freedom to the Hungarians." In sum, they were "victims of their own illusions."<sup>69</sup>

## **From the Crisis of Communism to an Emergency in the EU**

The history and analysis of the 1956 uprising provides a context in which to understand Hungarian nationalism and Orbán's rise as a populist strongman to combat the EU's detrimental policies. Paul Lendvai begins his book, *Orbán: Hungary's Strongman*, in discussing the importance of individual personalities in politics. Viktor Orbán's two overwhelming electoral victories of 2010 and 2014 indicate his competence as a politician in a country where the population is concerned about the effects of the last economic crisis, international terrorism, cross-border migration, and the conflicts between progressive and reactionary forces. As an attentive populist, Orbán uses these crises to his advantage and differentiates himself from past Hungarian politicians like Imre Nagy, who was too passive, or Mátyás Rákosi and János Kádár, who were foreign-installed puppets.

As in his 1989 speech, Orbán, like many other Hungarians, demands to settle scores with Hungary's communist past, such as the post-1956 Kádár regime, which according to more recent

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<sup>66</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 192.

<sup>67</sup> Gati, *Failed Illusions*, 211-212.

<sup>68</sup> Michael Korda, *Journey to a Revolution: A Personal Memoir and History of the Hungarian Revolution of 1956* (New York: Harper Collins, 2006), 145.

<sup>69</sup> Gati, *Failed Illusions*, 218.

polls is ironically popular.<sup>70</sup> Support for the Kádár regime is likely because income tripled in real terms between 1956 and 1989, and that the post-communist transition did not fulfill public expectations of economic and political promise.<sup>71</sup>

In March of 1988, Viktor Orbán and 36 of his peers founded Fidesz as an independent youth organization in the Great Hall of Bibó College.<sup>72</sup> Many of these college friends, like Orbán, came from modest financial backgrounds from marginalized provinces and currently hold high positions within Fidesz.<sup>73</sup> Fidesz initially promoted politics of classical liberalism.<sup>74</sup>

In its debut elections of 1990, Fidesz won 22 seats and 8.95% of the vote.<sup>75</sup> In 1994, Orbán and his party experienced defeat, in effect losing two seats and finishing last.<sup>76</sup> However, by 1994, it was clear that the socialists, due to the sad outcome of the transition, would do poorly without a rapid economic upturn or increased public benefits. Orbán realized that a political opportunity presented itself.

In assessing the foundations of the blocs of the Hungarian Parliament at the seventh party congress in 1995, Orbán reasoned that “in the center we have, if we stand alone, no chance against either left or right. To my mind, there is no possibility of cooperating with the left. My answer is that Fidesz must seek cooperation with the forces politically right of the center.”<sup>77</sup> While the left criticized Fidesz of political pandering and labeled them chameleons, Lendvai argues that Orbán’s turn to the right is related to the national traumas associated with the Trianon Treaty and the forty years under Soviet rule. In the 1980s, 70% of those polled expressed bitterness about the Trianon Treaty.<sup>78</sup> The Hungarian diaspora, separated as a result of the treaty, quickly became a central issue. Orbán pushed for their autonomy in neighboring countries, and in 2010 went further and granted passports for all Hungarians living abroad;<sup>79</sup> 95% of this new electorate would vote for Fidesz in 2014.<sup>80</sup> Former health minister, István Mikola, stated that “if we win for four years, and then, let’s say, grant the five million Hungarians citizenship and allow them to vote, then everything would be decided for the next 20 years.”<sup>81</sup> Orbán’s behavior immediately indicated that he supported a notion that only a homegrown strongman could right the wrongs of Hungary’s past, and vowed consistently to prevent foreign infiltration of Hungary’s political and economic system, regardless of its EU membership.

## Fatal Failures of the Left

In 1995, the Hungarian Socialist Party presented the Bokros economic package, which foreign investors supported; however, due to austerity measures, it proved to be political suicide. The Bokros policies pushed Fidesz to an unprecedented victory in the 1998 elections.<sup>82</sup> In 1998,

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<sup>70</sup> Lendvai, *Orbán: Hungary’s Strongman*, 3-5.

<sup>71</sup> *Ibid.*, 5.

<sup>72</sup> *Ibid.*, 21.

<sup>73</sup> *Ibid.*, 12.

<sup>74</sup> *Ibid.*, 21.

<sup>75</sup> *Ibid.*, 24-25.

<sup>76</sup> *Ibid.*, 33.

<sup>77</sup> *Ibid.*, 36.

<sup>78</sup> *Ibid.*, 37.

<sup>79</sup> *Ibid.*, 89.

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> *Ibid.*, 41.



Fidesz entered into a conservative coalition with the center-right Hungarian Democratic Forum (MDF) and the Smallholder's Party to secure an absolute majority: 148 of 386 seats or 38%.<sup>83</sup>

The first Orbán government from 1998 to 2002 consolidated decision-making in the Office of the Prime Minister and weakened the parliamentary system.<sup>84</sup> The Prime Minister also became the leading figure of government communications. Fidesz ministers began to rise whenever Orbán entered the room, and the government stopped recording minutes of cabinet meetings, an unprecedented practice absent in even the communist era.<sup>85</sup> Orbán promoted his friends to key media positions throughout the country.<sup>86</sup> In 2001, wages and income increased, special allowances and soldier salaries improved, and interest rate credits for private loans and home building increased.<sup>87</sup> However, consumption growth surpassed gross domestic product, and other economic indicators indicated deterioration.<sup>88</sup>

While Orbán remained popular throughout his first term, the center-left won a narrow victory in the 2002 elections, and nothing too significant occurred in Hungarian politics until the socialists nominated Ferenc Gyurcsány as Prime Minister in September of 2004. Gyurcsány pledged to reform the increasingly corrupt and fractured Hungarian Socialist Party. In 2006, he led the socialists to a narrow victory over Orbán.<sup>89</sup> Gyurcsány's political career looked promising until a political nuclear bomb shook Hungary on September 17, 2006; an audiotape in which Gyurcsány was heard, in a profane and passionate manner admitting to the lies of the left, emerged. In the tape, he stated that the socialists had been "lying morning, noon, and night" throughout their entire time in government.<sup>90</sup>

Orbán immediately issued an ultimatum for Gyurcsány to resign and called for demonstrations in front of Parliament.<sup>91</sup> One-hundred thousand people supported Orbán's call to fight against the "illegitimate dictatorial government."<sup>92</sup> On the fiftieth anniversary of the 1956 uprising on October 23, 2006, riots peaked, and scenes of police brutality came down on Budapest. 326 civilians were injured, as well as 399 members of the police. Orbán and Fidesz both identified the Lie Speech as critical in leveraging the radicalization of Hungarian politics to their benefit.<sup>93</sup> They referenced the violence of the fiftieth anniversary to no end, further emphasizing its significance to Orbán's rise and rule.

Fidesz's greatest successes came in 2010, 2014, and 2018 when the party won and preserved its supermajorities in the Hungarian Parliament. Since the first supermajority victory in 2010, the Fidesz government reconstructed the country's judiciary, legislative, and executive branches to preserve power for years to come. Orbán first mentioned his wish to create a central political force field in 2009, through which he claimed he could "replace the dual system for fifteen to twenty years."<sup>94</sup> Shortly after, Orbán's first parliament convened and the two-thirds Fidesz supermajority abolished the safeguard clause which required the preparation of a new constitution to be approved

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<sup>83</sup> Ibid., 43.

<sup>84</sup> Ibid., 44.

<sup>85</sup> Ibid., 44-46.

<sup>86</sup> Ibid., 46.

<sup>87</sup> Ibid., 47.

<sup>88</sup> Ibid., 47-48.

<sup>89</sup> Ibid., 59-63.

<sup>90</sup> Ibid., 65.

<sup>91</sup> Ibid., 70.

<sup>92</sup> Ibid.

<sup>93</sup> Ibid., 72.

<sup>94</sup> Ibid., 93.

by a four-fifths majority of parliament.<sup>95</sup> An accelerated system of legislation allowed for the passing of 26 reforms and 12 constitutional amendments in 19 months.<sup>96</sup>

On January 1, 2012, Hungary adopted the new constitution, which among other things, consolidated Fidesz power and allotted 9-year term periods for Orbán appointments. It also assigned a central role to Christianity and Hungary's national traditions and customs.<sup>97</sup> The Crown of Saint Stephen, previously suppressed by the Soviets, represented the sovereignty of the Hungarian nation and assumed a central role. The new constitution also proclaimed Hungary as occupied from March 1944 until the first free elections of 1990.<sup>98</sup> Orbán and Fidesz seemed to be rewriting the Hungarian collective memory to bolster their power and delegitimize past foreign influence altogether. In addition, Fidesz amendments allowed for the selection procedure for justices of the constitutional court to be decided by a simple majority vote in parliament; increased the number of justices; appointed pro-Fidesz individuals in the civil service, media, financial sector, and judiciary; modified term limits and retirement ages to weed out non-Fidesz judges; centralized the school system; built a fence along the southern border; passed the practical nationalization of tobacco shops; and completely eradicated Hungary's system of separation of powers.<sup>99</sup>

During the 2010–2014 government, Fidesz decreased the number of MPs from 386 to 199 and redrew many constituent boundaries, which resulted in a decreased popular vote threshold necessary to preserve the two-thirds supermajority. While these moves were indeed questionable and arguably responsible for Fidesz's 2014 victory, the goal of this analysis is not to offer constructive criticism to the Hungarian electoral process. The 2014–2018 government further focused on consolidating power, developing a hegemony over the right wing and conservative media, and controlling financial and credit policy.<sup>100</sup>

### **The Diplomatic Dance with Brussels**

While Hungary is a beneficiary of EU funds of approximately 23 billion euros between 2007 and 2013, Orbán's anti-EU positions and aspirations to create an illiberal democracy are attractive to other politicians in the bloc, mainly due to anxieties concerning EU austerity policies and the migrant crisis. Since 2015 and during periods of EU uncertainty, Orbán came to represent a right wing trailblazer for other leaders in East-Central Europe. The election victory of Jarosław Kaczyński of the right wing populist Law and Justice Party in Poland indicated another victory for Orbán, and political scientists across Europe agree that his "reading of the refugee crisis" caught the attention of the post-communist states of the Czech Republic, Poland, and Hungary.<sup>101</sup> "It is reasonable to [also] conclude that the majority of Romanians and Croatians think similar."<sup>102</sup> With respect to the refugee crisis, the Bulgarians too, "feel they are represented by him."<sup>103</sup>

However, if Orbán's positions are popular and legitimate, why is the EU aggressive in its efforts to stomp out the budding of illiberal democracy? Particularly because of the aforementioned

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<sup>95</sup> Ibid., 97.

<sup>96</sup> Ibid.

<sup>97</sup> Ibid., 99.

<sup>98</sup> Ibid., 102.

<sup>99</sup> Ibid., 103-110.

<sup>100</sup> Ibid., 127-129.

<sup>101</sup> Ibid., 199.

<sup>102</sup> Ibid., 199.

<sup>103</sup> Ibid., 199.

judicial changes, but also due to media laws and the government's tight control of the press, Viviane Reding battled Orbán consistently during her tenure as the Vice President of the European Commission for Justice, Basic Values, and Citizenship from 2010–2014. She is also a member of the European People's Party (EPP), the strongest faction in the European Parliament of which Orbán was one of its ten vice-presidents.<sup>104</sup> Reding consistently forced Orbán to retreat on particular financial, judicial, and media policies. Nonetheless, Fidesz pushed through judiciary adjustments and changes to state media which strengthened Orbán's grasp on power. In addition to the purchasing of media groups by Fidesz-loyal financiers, liberal media outlets came under attack. Most notably, *Népszabadság*, an influential left-leaning independent daily, was shut down in 2016, possibly due to government pressure.<sup>105</sup>

Communism did not reduce nationalism in the post-Eastern Bloc countries, and since 1989, it likely augmented it. The left-leaning descendants of communist and socialist parties also fell prey to poor political calculations which embraced neoliberal economic policies and compassionate positions toward migrants. According to Judis, “the decline of the European left after the Soviet Union's collapse, allowed for the opening, particularly for a right wing populism, [and] was enlarged by an additional factor—the rapid growth of a non-European immigrant population at the same time job opportunities were no longer plentiful.”<sup>106</sup> Unfortunately, reality indicates that migration into Hungary from non-EU states is not particularly popular, and that in many cases, the middle-class constituency turned to the right as a result of the crisis.

As emphasized by Lendvai, the Hungarian Socialist Party became perceived as “a disgusting snake pit of old Communists and left-wing careerists posing as Social Democrats” after the 1989 transition.<sup>107</sup> It is also interesting to note that though polls indicate that Hungarians are nostalgic of the Kádár regime, this is not for ideological reasons, but because most remember the perceived order and predictability fondly and would like a similar system today. While the surveys were conducted in 2009 before Orbán's rise, his successes indicate that a significant portion of the electorate supports his consolidation of power, perhaps for reasons of perceived stability.<sup>108</sup> In the same year, only 56% of those questioned considered the multi-party system desirable, and only 46% of respondents believed that the transition to democracy after 1989 was the correct course. With or without Orbán, these statistics bring the relevance of the EU and the Western liberal democratic and economic systems into question, especially in the post-Communist states of East-Central Europe.

Since 2017, Orbán's central offensive against the EU contains several clear-cut grievances. He argues that the EU allegedly plans to impose more utility prices, taxes, and illegal immigrants on Hungary.<sup>109</sup> Also, Orbán began a campaign to shut down the Central European University, founded by George Soros, and to limit the role of NGOs within the country.<sup>110</sup> Orbán blames Soros for Europe's current issues. He claimed that “it is absurd that a financial speculator decides the way ahead of Brussels. The European leaders are kowtowing to György Soros, who can say what Europe should do.”<sup>111</sup> A poll conducted in June 2017 by the independent Republikon Institute in

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<sup>104</sup> Ibid., 113.

<sup>105</sup> Ibid., 161.

<sup>106</sup> Judis, *The Populist Explosion*, 95.

<sup>107</sup> Lendvai, *Orbán: Hungary's Strongman*, 74.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid., 214.

<sup>110</sup> Ibid.

<sup>111</sup> Ibid., 217.

Budapest revealed that 28% of Hungarians believe Soros has “considerable influence” over Hungarian politics, while 12% believes he has “some influence.”<sup>112</sup> Lendvai also emphasizes the role of anti-Semitic and anti-Roma undercurrents, which came to the fore in the radicalized political climate in Hungary since the 2008 recession and the climax of the recent migrant crisis. Many criticize Orbán himself of anti-Semitism, often citing his Soros remarks, which are rude. However, Orbán strictly avoids mentioning Soros’ Jewish background, and his political marriage with Israel’s Prime Minister, Benjamin Netanyahu, allows him to sidestep accusations of anti-Semitism.<sup>113</sup>

## **Conclusion: Praising the Illiberal Democracies of the World**

On July 24, 2014, Orbán gave his infamous ‘illiberal democracy’ speech to members of the Hungarian diaspora in the Romanian town of Băile Tușnad. First, he thanked Hungarians in Romania for their support in propelling Fidesz to a two-thirds supermajority. Second, he designated the 2008 financial crisis as a moment that changed global economic and political power and confirmed a decline in American soft power. Further discrediting US-led modernization, Orbán described liberal values as corrupted by sex and violence. In response to this perceived liberal crisis, Orbán offered a solution. He praised China, India, Russia, Singapore, and Turkey as viable alternatives to the decaying Western European dogmas of global economic and political interaction. He emphasized that liberal values prevented Hungary from remaining in the great world-race of economic development, and presented democracy and liberal values as two exclusive ideas. However, why did Orbán abandon liberal values? He claimed, in his speech, that liberal democracy failed Hungary in key ways. First, liberal democracy abandoned and perhaps even denied the existence of national interests altogether. Second, liberal democracy failed to protect public wealth. Third, the liberal state did not protect Hungary from indebtedness to foreign institutions. Fourth, because of indebtedness, liberal values did not defend Hungarian families from bonded labor. In response to these liberal failures, Orbán declared an ambition to create an illiberal nation state within the EU. In closing, Prime Minister Orbán urged the Hungarians of the Carpathian Basin and throughout the world, to accompany him on his illiberal journey of restructuring the Hungarian nation-state to serve its national interests and Hungarian majority.

Orbán’s infamous speech was ultimately telling of much of the uproar surrounding his leadership. The Fidesz regime actively seeks to consolidate power and dismantle constitutional and institutional safeguards to expand its influence. Orbán believes he knows best and publicizes his views on the EU, democratic systems, national identity, and sovereignty through heavily state-influenced media. He also exports his ideas to other Central-East European states through his tough stances on migrants and defiance toward Brussels bureaucrats. In the summer of 2014, he described Turkey, Russia, and China as success stories, prompting many to label Orbán as “one of Vladimir Putin’s best friends inside the EU.”<sup>114</sup> Why is Orbán intent on ruining relationships with European partners for new authoritarian friends? Orbán’s political career tells that he is a reactionary, and perhaps he believes the EU is on its way down and that he is somehow ahead of the political curve. Nonetheless, he is certainly changing the EU from within.

Ferenc Donáth, a reform communist mastermind argued that “the revolt was aimed primarily against the humiliation of the nation, and that the working class recognized and felt that

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<sup>112</sup> Ibid., 218.

<sup>113</sup> Ibid., 230.

<sup>114</sup> Ibid., 221.

humiliation just as keenly as the intellectuals.”<sup>115</sup> One must remember that Orbán’s political career began in 1989 at the ceremonial funeral held for the martyrs of the revolution. Perhaps he too viewed the rebellion as an uprising against the humiliation of Hungary. Perhaps Orbán believes that to prevent the economic, political, and social humiliation of Hungary, a domestic strongman must reject the liberal values and politics of Brussels and embrace a new way, one of illiberal democracy in the heart of the European project. It is impossible to know the precise thoughts of another mind; similar leaders existed in the past and often spoke on behalf of the people while suppressing the opposition. The uprising of 1956 played a central role in Orbán’s views on foreign influence; these perceptions directly filter the European Union through a lens of suspicion and mistrust, resulting in populist politics which celebrate sovereignty and nationalism. Orbán policies are his own, but his strongman approaches are as old as the practice of politics. Orbán utilized Hungary’s tragic history of foreign exploitation to further populist politics, which presented European integration in an imperial and almost colonizing light. The construction of a triadic populist relationship between the people, the bureaucrats of the EU, and migrants on the foundations of foreign influence on the uprising of 1956 echo the words of William Faulkner as cited by Lendvai: “The past is not dead. In fact, it’s not even the past.”<sup>116</sup>

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<sup>115</sup> Ibid., 53.

<sup>116</sup> Lendvai, *One Day That Shook the Communist World: The 1956 Hungarian Uprising and Its Legacy*, 245.

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## State Capture and Cooperation: Hungary, Serbia and North Macedonia and the Foreign Policies of Their Autocrats

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Ivana Jordanovska

### 1. Introduction

#### 1.1 The curious case of the asylum seeker in Hungary

On November 13, 2018, former Prime Minister of the Republic of North Macedonia Nikola Gruevski announced on his Facebook page that he has fled to Hungary where he will apply for political asylum.<sup>1</sup> Justifying his decision with the number of alleged threats he has received, Gruevski escaped the country and the two-year sentence for fraud in a case that was finalized only two days earlier.

Gruevski served as Macedonia's Prime Minister from 2006 to 2015, a period culminating with the longest political crisis since the country's independence. Illegally wiretapped conversations leaked to the opposition showed that Gruevski and his closest partners controlled key aspects of the democratic institutions of the country. The Parliament, the public administration, the judiciary and most of the media outlets in the country were under the control of a small group around Gruevski, leading to widespread corruption and fraud.<sup>2</sup>

Gruevski's escape from Macedonia is indicative of a much more serious state of affairs in several South-Eastern and Central European countries. After illegally crossing the border between Macedonia and Albania, he reached the Hungarian embassy in Tirana. From there, with two Hungarian diplomats in a car with diplomatic license plates owned by the Hungarian embassy, he crossed the Albania – Montenegro border. He left Podgorica and entered Serbia with two other Hungarian diplomats and in a different car, though one still owned by a Hungarian embassy and with diplomatic plates. How Gruevski got from Serbia to Hungary is still unconfirmed.<sup>3</sup>

This information was made public because of statements made by the Albanian and Montenegrin Ministries of Interior. Both the Serbian and Hungarian Ministries refused to offer official information as to when, where, and how Gruevski traveled across their borders. Their silence is even more interesting given the fact that there is an extradition request by the Macedonian government. At the same time, the European Parliament adopted a resolution that calls on Hungary to extradite Gruevski, while urging Macedonia to “intensify the fights against money laundering and conflicts of interest, to better shield the judiciary from political interference and address remaining rule of law problems.”<sup>4</sup>

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<sup>1</sup> Facebook page: Nikola Gruevski. Accessed April 14th, 2019.

<https://www.facebook.com/NGruevski/posts/10156942186402716>

<sup>2</sup> Simonida Kacarska, *Freeing the Captured State in Macedonia: What Role for EU Accession* (Freedom House, November 2017) [https://freedomhouse.org/sites/default/files/122017\\_Macedonia\\_Brief\\_Final.pdf](https://freedomhouse.org/sites/default/files/122017_Macedonia_Brief_Final.pdf)

<sup>3</sup> Vesna Radojevic, *Srpska policija cuti o slucaju "Gruevski"* (Raskrikavanje, November 16, 2018). <https://www.raskrikavanje.rs/page.php?id=310>

<sup>4</sup> European Parliament, *Western Balkans: European Parliament Takes Stock of 2018 Progress*, (November 29, 2018).

<http://www.europarl.europa.eu/news/en/press-room/20181126IPR20157/western-balkans-european-parliament-takes-stock-of-2018-progress>

## 1.2. Research Design

Given the illiberal tendencies in both Serbia and Hungary, which show grim similarities with the Gruevski regime in Macedonia, it is worthwhile to examine the extent and nature of cooperation that these countries have had. This paper will analyze whether state capture has affected cooperation between Serbia, Hungary, and Macedonia under the Gruevski regime.

The research question asks whether cooperation among captured states, as a form of authoritarian regimes, exists and is driven by interests of the capturing groups or by the ideology of capture. In order to answer this question, this paper will analyze liberalism and constructivism in the next two parts of this paper, as theories that could potentially be applied to the dilemma of ideology vs. interest in cooperation between these states.<sup>5</sup>

## 1.3. Definitions and limitations

When analyzing the various patterns of cooperation between authoritarian states, it is important to distinguish whether cooperation stems from interests or ideology. Scholarly work so far has shown that most autocrats cooperate out of interest, while ideology is a driving factor only in limited cases.<sup>6</sup> However, since state capture is a specific form of authoritarian rule, and this paper is looking at specific case studies, this question remains relevant.

Cooperation among authoritarian states is a subfield that has received limited scholarly attention, especially in comparison with research done on cooperation among democratic states, or the studies of democratization or Europeanization.<sup>7</sup> By analyzing this narrow aspect of cooperation among these three states, which exhibit the traits of captured states, this paper will contribute to the field in a modest way.

The following are the latest definitions referring to state capture which appeared in the work of scholars studying the recent political crisis in South Africa. The broadest definition of *state capture* is given by Sarah Bracking, who describes the concept as “the process of obtaining, or capturing, state regulatory authority without democratic authorization. The persons capturing state powers can be private or—as in South Africa—a mix of politicians and private actors who have gained influence over regulatory processes to serve private interests.”<sup>8</sup>

There is an additional level that plays a role in international relations as well: “the existence of a political project at work to repurpose state institutions to suit a constellation of rent-seeking networks that have been constructed and now span the symbiotic relationship between the constitutional and shadow state.”<sup>9</sup>

State capture can be defined as the control of the judiciary, legislative branch, public administration and most (if not all) of the media outlets by a group of people that have a political

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<sup>5</sup> Andre Bank, “The Study of Authoritarian Diffusion and Cooperation: Comparative Lessons on Interests versus Ideology, Nowadays and in History,” *Democratization* 24, no. 7 (2017): 1345-1357.

<sup>6</sup> Ibid.

<sup>7</sup> Gero Erdmann, Andre Bank, Bert Hoffmann, and Thomas Richter, “International Cooperation of Authoritarian Regimes: Toward a Conceptual Framework,” *German Institute of Global and Area Studies* No. 229 (July 2013).

<sup>8</sup> Sarah Bracking, “Corruption and State Capture: What Can Citizens Do?” *Daedalus* 147, Issue 3 (Summer 2018): 169-183.

<sup>9</sup> Haroon Borat, Mgongiseni Buthelezi *et al.*, *Shadow State: The Politics of State Capture* (Johannesburg: Wits University Press, 2018).

project with rent-seeking intentions. These captured states are part of a broader wave of populist nationalism, often marked by overemphasized fear of the “others.”<sup>10</sup>

Cooperation can be understood in different ways. Since the area of authoritarian regime cooperation in contemporary terms is poorly researched, one could plausibly make the argument that we need to be cautious in using pre-existing definitions. However, this is beyond the scope of this research project; despite these limitations, this paper will use Keohane’s definition of cooperation:

Cooperation occurs when actors adjust their behavior to the actual or anticipated preferences of others, through a process of policy coordination. To summarize more formally, intergovernmental cooperation takes place when the policies actually followed by one government are regarded by its partners as facilitating realization of their own objectives, as the result of a process of policy coordination.<sup>11</sup>

A significant limitation to this paper is the overall opacity of the regimes in Serbia and Hungary, which includes their international cooperation as well. With regards to Macedonia, the situation is slightly better due to the large amount of information and multiple court cases currently underway against the key players of the Gruevski regime.

Another thing to consider is the fact that these countries come from relatively similar socio-historical backgrounds, and engage with similar international actors and processes. Hungary is a member of the European Union, while Serbia and Macedonia are candidate countries. Serbia has already started accession negotiations, while Macedonia awaits a date in 2019 for the start of negotiations. What will come out as a conclusion from this paper might not necessarily apply to cases of state capture in societies with different socio-historical backgrounds.

#### **1.4. State of democracy**

Although Serbia has started the negotiation process with the European Union, the state of democracy in the country has been significantly deteriorating. The latest report by Freedom House on the Democracy Score speaks of worrying trends:

Fundamental freedoms and Serbia’s democratic institutions continued their deterioration in 2017, marking the fourth consecutive year of democratic decline in the country and its lowest Democracy Score in Nations in Transit since 2003. The areas that suffered particularly during the year were the independence of the media, civil society, national democratic governance, and the conditions under which local elections take place.<sup>12</sup>

Freedom House notes significant problems and corruption in all four areas that are relevant for the definition of state capture mentioned above. An ever-increasing centralization of power in the hands of Serbia’s President, Aleksandar Vucic, has weakened the checks and balances of the system. Parliamentary culture remains weak, with pressure on the opposition leader occurring in various forms, including penalties and disciplinary measures. The small Election Assessment Mission sent by the OSCE/ODIHR for the presidential elections in 2017 found widespread reports

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<sup>10</sup> Francis Fukuyama, *Identity: The Demand for Dignity and the Politics of Resentment* (New York: Farrar, Straus and Giroux, 2018).

<sup>11</sup> Robert Keohane, “Cooperation and International Regimes,” in *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 2005), 51-52.

<sup>12</sup> Freedom House, *Nations in Transit, Serbia, Country Report* (Washington, DC: Freedom House, 2018).



of civil servants being forced to secure votes for the ruling party candidate ahead of the elections, thus showing the extent of control over the public administration.

The elections revealed a very unequal media space distribution, with 70% of all headlines related to politicians and political parties mentioning Aleksandar Vucic, of which more than 70% cast him in a positive light. This combined with the constant pressure on individual journalists and the closing of the independent newspaper *Vranjske* speak to the advanced level of capture happening within the media. Judicial independence remains at a very low level, with the World Economic Forum ranking Serbia 118<sup>th</sup> out of 137 jurisdictions on judicial independence.<sup>13</sup>

A similar picture is painted on the topic of the state of democracy in Hungary. Freedom House notes “seven years of “creative compliance”” with the rules and expectations of the European Union, while a serious erosion of democratic institutions took place. However, even this facade was lost in 2017 when the actions of the Hungarian government were more similar to that of an authoritarian regime, rather than a democracy.<sup>14</sup>

Government control over the media has been steadily growing since 2011, and has resulted in almost complete dominance by the Prime Minister’s office. Just as in Serbia, Hungary’s independent journalists are facing serious attacks. The strengthening of this state control extends to the relationship between the government and the parliament as well. The government mostly passes the legislation needed in Parliament without a significant independent legislative voice, and has even amended certain legal provisions to change the need for a two-third majority to a simple majority.

Employment in the public administration remains highly dependent on political loyalty, and the government has managed to erode the judicial independence of administrative courts by allowing for civil servants who lack judicial experience to serve as administrative court judges. A further cause for concern is the lack of independence in the Constitutional Court, as most of the judges have been appointed by the governing coalition.

Macedonia’s political crisis and the subsequent high-level court cases proved many of the assumptions and problems of the Gruevski regime. In an eerily similar way to Serbia and Hungary, Gruevski managed to control the public administration, the Parliament, the judiciary and the media, all while receiving praise and support from the European Commission.<sup>15</sup>

The time period after the parliamentary elections in 2016 and the forming of the new government in 2017 proved the extent to which state capture was present in Macedonia. Consistent with the Freedom House reports from 2008 until 2015, the country’s checks and balances were seriously compromised and have yet to be completely rebuilt by the new government.<sup>16</sup> One could argue that the fact that Gruevski managed to leave the country illegally while facing a court sentence of two years in prison shows the extent to which the state institutions need to be rebuilt.

## 2. Liberalism

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<sup>13</sup> World Economic Forum, *Global Competitiveness Index 2017-2018* (World Economic Forum, 2018).

<sup>14</sup> Freedom House, *Nations in Transit, Hungary, Country Report* (Washington, DC: Freedom House, 2018).

<sup>15</sup> Vasko Popetrevski, *The European Commission's Complicity in Macedonia's State Capture*, (CEPS Commentary, July 2017).

<sup>16</sup> Simonida Kacarska, *Freeing the Captured State in Macedonia: What role for EU Accession?* Freedom House (November 2017), [https://freedomhouse.org/sites/default/files/122017\\_Macedonia\\_Brief\\_Final.pdf](https://freedomhouse.org/sites/default/files/122017_Macedonia_Brief_Final.pdf) (Accessed 02 December 2018).

The extent to which one can analyze the cooperation between Serbia, Hungary and Macedonia in light of the liberal tradition is limited, and at times, ironic. However, certain aspects of liberalism are very important in explaining the trend of cooperation among captured states.

By taking Kant into consideration and turning his *Perpetual Peace* on its head, one can start to think about the nature of cooperation, even among captured states where domestic politics can be a determining factor within the international politics.<sup>17</sup> In a captured state, control of the media means control of the public opinion, both in what is presented to the public and what is depicted as the opinion of the wider public. By extension, the capturing elite manages to influence the state–society linkages and tilt the foreign policy of a country towards greater cooperation with countries that face similar internal dynamics.<sup>18</sup>

An obvious contradiction to acknowledge is the challenge to the liberal assumption that citizens are rational beings who will always act in their own best interest. If citizens are rational beings, how could they support autocratic policies and cooperation with other autocrats? In order to answer this, one should employ an assumption from economics: it is assumed that consumers are rational beings and that they will always choose what is best for themselves on the market. However, this assumption is constrained by the world of imperfect information. Consumers will choose what is best for them, but only from the information that is available.

In the same way, if the control over media and information is tightly held, citizens will only receive the information that is served to them by the capturing elite. The control over the legislative body means that citizens' views cannot be translated into policy as effectively as they would be in a democracy. In the case of Serbia and Hungary, elites often present information regarding the outstanding economic cooperation between the two countries. As of 2018, the two governments have held four joint government sessions where topics such as foreign direct investment and joint infrastructure projects dominate most press releases. A number of bilateral agreements and memoranda are signed, and the rights of minorities and the fight against illegal migration are mentioned seemingly as an afterthought.<sup>19</sup>

To link to Keohane's definition of cooperation mentioned above, Hungary's Prime Minister Orban said in a speech in 2016 in southern Serbia that "Hungarian investment will only be made in areas which serve Serbia's best interests and are tied to the country's economic strategy."<sup>20</sup> Whether the inflation of bilateral agreements and intensity of meetings is actually producing results is difficult to conclude. Both Serbia's and Hungary's governments offer limited amount of information when it comes to official statistical figures, and the figures cited by the leaders—Vucic and Orban—can't be confirmed by external sources. One such example is the information that trade between Serbia and Hungary rose by 30% in 2017, stated by the Hungarian Prime Minister during the last joint government session in 2018.<sup>21</sup>

What could be telling is a somewhat similar pattern of statements that existed between Serbia and Macedonia during the Gruevski years. Both governments held two joint government

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<sup>17</sup> Immanuel Kant, *Perpetual Peace*, n R. Betts, *Conflict After the Cold War: Arguments on Causes of War and Peace*, edited by R. Betts (New York: Routledge): 136-142.

<sup>18</sup> Knud Erik Jorgensen, *International Relations Theory: A New Introduction* (London: Palgrave, 2018).

<sup>19</sup> "Hungarian, Serbian Cabinets Hold Joint Meeting in Budapest," *Budapest Business Journal* (Budapest, Hungary), 9 February 2018.

<sup>20</sup> Cabinet Office of the Prime Minister of Hungary, *The Time Has Come to Strengthen Hungarian-Serbian Economic Cooperation*. (Budapest, Hungary, November 2016).

<sup>21</sup> "Hungarian, Serbian Cabinets Hold Joint Meeting in Budapest," *Budapest Business Journal* (Budapest, Hungary), February 2018.

sessions in a period of less than two years when a more than twenty bilateral agreements and memoranda were signed.<sup>22</sup> The main topics of discussion were infrastructure and economic cooperation between the two countries.<sup>23</sup>

More than three years after the first government session, most of the agreements and memoranda haven't been implemented. One could discuss the effect that the change in government in Macedonia had on the slow rate of implementation, but according to sources in the Ministry of Foreign Affairs, there was little interest in implementation even during the Gruevski years.<sup>24</sup>

### 3. Constructivism

When thinking about the ideological aspect of cooperation among captured states, it is useful to use some of the assumptions of constructivism. Wendt sees systemic structures influencing and constructing the state interests, which shifts the focus from micro-economic to sociological structuralism.<sup>25</sup> If the behavior of states is defined by shared understandings, material resources and practices, as Wendt argues, then it should come as no surprise that the prevalent and comparable levels of state capture influence the foreign policy and cooperation among these states. The cooperation among Hungary and Serbia is cooperation between capturing elites. As such, each understands the moves and directions of the other and feels secure in offering support.

This support is further enhanced by their respective relationships with the European Union, and the member states which are established liberal democracies. Hungary regularly offers its support for Serbia in various EU institutions, including situations when the state of democracy in Serbia is being discussed and questioned.<sup>26</sup> The same was true of Orbán's support of Macedonia, when former Prime Minister Gruevski visited Hungary, even in the midst of the most serious political crisis. On that occasion, Orbán praised Gruevski and stated that during his terms as Prime Minister, "a genuine and sincere friendship was built between the two nations."<sup>27</sup>

When it comes to resources, Hungary was on the forefront of offering logistical and personnel support to Macedonia and Serbia in dealing with the migrant crisis in 2015. Although Greece—another EU member—was the first European point of entry, the tone used and assistance provided to Greece by Hungary's Foreign Minister was vastly different.<sup>28</sup> In the same time period, the images of cruelty and violence from Macedonia's southern border circled the world as police forces tried to disperse ever growing numbers of migrants. To what extent the handling of the 2015 migrant crisis was an example of constructivist cooperation between Macedonia, Hungary and Serbia would be an interesting topic for further research.

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<sup>22</sup> Employee in the Ministry of Foreign Affairs, Progress in bilateral cooperation with Serbia, in discussion with the author, February 2018.

<sup>23</sup> Jovana Stetin, *N1 u Skopju: Srbija i Makedonija potpisale sedam sporazuma* (February, 2015) Retrieved December 02, 2018, from N1: <http://rs.n1info.com/Vesti/a35691/Zajednicka-sednica-vlada-Makedonije-i-Srbije.html>

<sup>24</sup> Employee in the Ministry of Foreign Affairs, Progress in bilateral cooperation with Serbia, in discussion with the author, February 2018.

<sup>25</sup> Alexander Wendt, "Constructing International Politics," *International Security* 20, no. 1 (Summer 1995): 71-81.

<sup>26</sup> "Hungarian, Serbian Cabinets Hold Joint Meeting in Budapest," Budapest Business Journal.

<sup>27</sup> Cabinet Office of the Prime Minister of Hungary, *The Time Has Come to Strengthen Hungarian-Serbian Economic Cooperation* (Budapest, Hungary, November 2016).

<sup>28</sup> Jacopo Barigazzi, "Macedonia gets help to stem migrant flow," *Politico*, 06 June 2016 <https://www.politico.eu/article/syria-migration-crisis-macedonia-greece-schengen/>, accessed 02 December 2018.

The most thought-provoking aspect of Wendt's methodology is the idea of practices as social structures. As countries where power and decision-making are concentrated within small groups of individuals, and where formal rules and institutions lose their primary role, it is adopted practices that can create and shift policy. Perhaps the most evident example is in Hungary's transportation assistance and asylum to former Prime Minister Gruevski. By offering him refuge in Hungary, Orbán showed that the asylum rules of the EU, the bilateral relationship with Macedonia, and his previously-expressed xenophobia matter less than the idea of 'helping a friend in need.' The support of Gruevski was a gesture of help towards a like-minded corrupt politician, and perhaps a hope that one day, when his own term expires, Orbán might be extended the same courtesy.

#### **4. Neither and Both: Between Liberalism and Constructivism**

Both liberalism and constructivism offer thought-provoking lenses for analyzing the cases of cooperation between Serbia, Hungary and Macedonia. They are intriguing because both schools of thought have strengths and weaknesses in the analysis of these particular cases and prompt more in-depth future research.

The idea that state-society linkages are strong and that citizens are rational within the limitations of their knowledge seems to explain the drive of these countries to cooperate among each other. However, in a captured state, citizens don't have the possibility to influence state decisions to the same extent as in a democratic state, and Macedonia's political crisis is a good example. It took a long time for citizens to be able to modify and change state policies. Luckily, state capture isn't absolute, so it eventually led to government and policy change.

The focus on economic cooperation between capturing elites further argues in favor of citizens' rationality and their understanding that closer cooperation with neighbors is beneficial. Yet the consistent criticism of liberalism's faith in linear progress is applicable in this case. The limitations posed on citizens' knowledge of domestic and foreign affairs by authoritarian control over information means that they may not make decisions that lead inevitably to progress. Even if citizens believe that voting for Vucic and Orbán is progressive—which under conditions of state capture is debatable—the result does not strengthen democracies or enhance societies.

Another point of discussion is the focus on institutionalization within international relations, and its perception as a positive trend. Even though there is a growing number of agreements between these countries, this doesn't necessarily lead to the implementation of all said agreements. As a result, the liberal focus on formalizing relations is not fully applicable in the case of state capture.

Constructivists offer a different perspective on the ongoing cooperation, although this school of thought has its own strengths and weaknesses. The idea that states cooperate based on shared structural understanding holds true only partly in the triad of Serbia, Hungary and Macedonia. Since the capture of society is developed in these cases, we can't speak of structural characteristics of societies, but rather of the capturing elites who control these societies. There is an evident understanding between Orbán, Vucic and Gruevski, but it is questionable to what extent this can be considered an understanding among the societies and states themselves.

The sharing of resources is also conditioned by state capture and the fact that the capturing elites control the resources, as well as the narrative around the use of resources. If we treat state capture as a practice that generates certain types of behavior, then the commonalities and the reasons to cooperate among captured states become self-evident. However, we need to be careful when treating these practices as structures within society, instead of behaviors by capturing elites.

Serbia and Hungary, as well as Macedonia during the Gruevski years, show a level of cooperation that is intriguing and can't easily be classified in the same bracket with cooperation among democratic states. The liberal assumption that internal politics influences foreign policy definitely holds true to an extent, but it is also the common goals and understanding of the capturing elites that drive cooperation.

Overall, it is difficult to argue for the greater application of one school's perspective over the other. Cases of state capture, although authoritarian in nature, are relatively novel in appearance on the world stage and require developing better understanding and frameworks for analyzing their cooperation. Using the same methods and approaches as cooperation among democratic states offers serious limitations and can lead to the wrong conclusions.

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## Temporary Protected Status: Studying the Consequences of Terminating a Long-term, Yet “Temporary” Immigration Status

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*Tatiana Marroquin*

In 1990, an amendment to the Immigration and Nationality Act (INA), created a new immigrant status for the hundreds of thousands of immigrants in the United States who are “temporarily” unable to return to their countries of origin due to an ongoing armed conflict, a natural disaster, or extraordinary circumstances.<sup>1</sup> This form of provisional humanitarian security is known as Temporary Protected Status (TPS) and currently benefits a significant number of foreign nationals.<sup>2</sup>

There are approximately 437,000 TPS beneficiaries living in the United States.<sup>3</sup> These are nationals from ten designated countries: El Salvador, Haiti, Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen.<sup>4</sup> There is also the special case of Liberia, which has been designated as a Deferred Enforced Departure (DED) country, an administrative stay of removal granted under the President’s authority to conduct foreign relations.<sup>5</sup>

TPS, which is overseen by the Secretary of the Department of Homeland Security (DHS), grants a temporary stay of deportation and temporary permission to work to any person from a designated country living in the United States at the time such designation is made.<sup>6</sup> TPS can only be extended between 6 and 18 months at a time, and those designations can be terminated or renewed at any given time.<sup>7</sup> It is important to underscore that TPS does not offer a direct and rightful path to permanent residency or the possibility to gain citizenship.<sup>8</sup>

As we have recently seen, the United States government can withdraw a country’s TPS designation once it has determined that the nation has recuperated from the crisis that triggered it. Since October 2017, the Secretary of the Department of Homeland Security has announced its intent to terminate TPS designation to six nations—Sudan, Nicaragua, Haiti, Nepal, El Salvador and Honduras.<sup>9</sup> Similarly, in March 2018, President Donald J. Trump issued a memo announcing the end of Deferred Enforced Departure for Liberia.<sup>10</sup> Consequently, there is an ongoing debate on whether or not the United States government should create a path to a more permanent immigration status to those migrants that have been living in the United States for long periods of time with TPS or DED.<sup>11</sup>

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<sup>1</sup> 8 U.S.C. §§ 1181 to 1182

<sup>2</sup> INA § 244a(a)(1)(A)

<sup>3</sup> United States Congress, Congressional Research Service, and Jill H Wilson, *Temporary Protected Status: Overview and Current Issues*, No. RS20844, at 5-15 (2018)

<sup>4</sup> United States Congress, No. RS20844, at 5 (2018)

<sup>5</sup> “Temporary Protected Status and Deferred Enforced Departure,” *Adjudicator’s Field Manual*, U.S. Citizenship and Immigration Services, 2014.

<sup>6</sup> INA § 244a(a)(1)(A); INA § 244a(a)(1)(B)

<sup>7</sup> INA § 244a(b)(2)(B)(1)

<sup>8</sup> United States Congress, Congressional Research Service, and Jill H Wilson, *Temporary Protected Status: Overview and Current Issues*, No. RS20844 at 8 (2018).

<sup>9</sup> AV Press Releases. “What Is Temporary Protected Status (TPS)?” *America’s Voice*. America’s Voice Education Fund, last accessed 05 Oct. 2018.

<sup>10</sup> Comp. Pres. Doc.

<sup>11</sup> United States Congress, Congressional Research Service, and Jill H Wilson, *Temporary Protected Status: Overview and Current Issues*, No. RS20844, at 1 (2018)

While TPS holders often seek alternate immigration relief that will allow them to remain in the United States more permanently, hundreds of thousands are not eligible for any other immigration status or have past immigration issues that prevent them from gaining lawful permanent status. As a result, this paper will examine the consequences that citizens of certain designated countries will endure upon termination of Temporary Protected Status for their country. Moreover, it will argue that while the repercussions of terminating TPS would be contingent upon the status of each individual's immigration case before TPS status was awarded, several controversial changes undertaken by the Trump Administration in recent months have placed additional restraints on the system and made most individuals even more susceptible to deportation than before.

In parallel to this, the paper will assess the broader unintended effects of repatriating hundreds of thousands of people to fragile nations that may be unable to effectively handle the reintegration of these individuals. Historical evidence derived from the experience of the Northern Triangle of Central America will be used to show that mass deportations will further destabilize these countries, and may ultimately lead to a surge in illegal immigration to the United States that will place additional stress on an immigration system the Trump Administration is trying to "fix" and alleviate. In this manner, this paper will lead a two-pronged evaluation of the consequences to be endured both by individual recipients and the countries facing looming mass repatriations as a result of TPS terminations.

## Background

The immigration laws of the United States rest under the formation of the INA, which has been categorized as Title 8 of the United States Code.<sup>12</sup> Passed in 1952, the INA has become the highest source of immigration law in the United States, establishing a system of rules and regulations that dictate the process by which foreigners are admitted into the country. It also upholds that "an alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible."<sup>13</sup> As a result, an individual is subject to removal solely based on their unlawful presence.<sup>14</sup>

While the INA has been amended many times since its creation, it was not until November 29 1990 that President George H. W. Bush signed into law a new Immigration Act, which consisted of a series of newly created provisions to amend the INA.<sup>15</sup> These provisions increased the number of immigrants allowed to enter the United States and created TPS.<sup>16</sup> TPS is a special program that provides a "temporary" stay of removal for citizens of certain nations that are unable to return to their countries safely due to an environmental or political calamity; in other words, it grants temporary protection and assurance that a person who is unlawfully present in the United States will not face removal or deportation.<sup>17</sup> Recipients from the ten designated countries—El Salvador, Haiti,

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<sup>12</sup> 8 U.S.C. §§ 1181 to 1182

<sup>13</sup> 8 U.S.C. § 1182(a)(6)(A)(i)

<sup>14</sup> Under the Homeland Security Act of 2002, any functions with reference to the Attorney General in a provision of the Immigration and Nationality Act have been transferred from the Department of Justice to the Department of Homeland Security.

<sup>15</sup> Pub. L. 101-649 Immigration Act of 1990

<sup>16</sup> INA § 244a(a)(5)(b)(1)

<sup>17</sup> INA § 244a(a)(1)(A)

Honduras, Nepal, Nicaragua, Somalia, Sudan, South Sudan, Syria, and Yemen—are also eligible, under the law, to receive an Employment Authorization Document (EAD).<sup>18</sup>

As previously mentioned, another form of humanitarian relief that temporarily halts the removal of a foreign national unlawfully present in the United States is known as Deferred Enforced Departure (DED).<sup>19</sup> However, Liberia is the only foreign state under such a designation.<sup>20</sup> While those individuals that are granted a temporary stay of removal through DED are also able to obtain a work authorization document, the process by which a country is designated differs greatly from TPS.<sup>21</sup> DED is granted by the President of the United States through his “constitutional powers to conduct foreign relations” and it has no statutory basis. It is also not considered an immigration status as it has no written statutory clause within the INA.<sup>22</sup>

Under the law, the Secretary of the Department of Homeland Security may designate a country for Temporary Protected Status if:

(A)[...]There is an ongoing armed conflict within the state and, due to such conflict, requiring the return of aliens who are nationals of that state to the state would pose a serious threat to their personal safety;<sup>23</sup>

(B)(i) There has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected;<sup>24</sup>

(C) There exists extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety.<sup>25</sup>

Under Section 244 of the INA, the DHS is required to make a determination on whether to extend or terminate TPS for each designated state at least 60 days before the status is set to expire.<sup>26</sup> In some instances, DHS can “redesignate” a state to be protected under TPS if it concludes that the treacherous conditions remain. If, however, the government agency resolves that the foreign state no longer meets the criteria to grant a TPS “designation,” an extension can be awarded. A TPS extension is merely a continuance of status for those who already hold temporary status and does not allow new applicants.<sup>27</sup> As we have seen in recent months, DHS has also the authority to halt TPS, leaving hundreds of thousands of people who have held temporary status since the 1990s, scrambling to find a way to remain in the country.<sup>28</sup>

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<sup>18</sup> INA § 244a(a)(1)(B)

<sup>19</sup> “Temporary Protected Status and Deferred Enforced Departure.” *Adjudicator's Field Manual*, U.S. Citizenship and Immigration Services, 2014.

<sup>20</sup> Filing Procedures for Employment Authorization and Automatic Extension of Existing Employment Authorization Documents for Eligible Liberians Before Period of Deferred Enforced Departure Ends, 83 FR 13767

<sup>21</sup> “Temporary Protected Status and Deferred Enforced Departure.” *Adjudicator's Field Manual*, U.S. Citizenship and Immigration Services, 2014.

<sup>22</sup> U.S. Citizenship and Immigration Services, *Adjudicator's Field Manual*.

<sup>23</sup> INA § 244a(a)(5)(b)(1)(A)

<sup>24</sup> INA § 244a(a)(5)(b)(1)(B)

<sup>25</sup> INA § 244(a)(5)(b)(1)(C)

<sup>26</sup> INA § 244(b)(3)(A)

<sup>27</sup> INA § 244(b)(3)(C)

<sup>28</sup> INA § 244(b)(3)(B)



## Eligibility Requirements

It is important to note that simply holding citizenship from a certain designated state is not the only requirement a foreign national must meet in order to qualify for TPS. First of all, a person must meet the presence and residency requirements. The law explicitly states that an individual must have been “continuously physically present” in the United States from the day DHS made the most recent designation and continues to reside in the United States since the effective date.<sup>29</sup> For example, El Salvador received its most recent TPS designation on February 13<sup>th</sup>, 2001.<sup>30</sup> Individuals physically present in the United States since or before such date are eligible to apply for TPS. However, Salvadoran nationals who entered on or after February 14, 2001 would be unequivocally disqualified. A foreign national who was admitted into the U.S. after the effective date could only qualify for TPS if the foreign state receives a new designation. Consequently, even though crisis conditions are still considered to exist within their origin country, “new” individuals fleeing those conditions are not awarded TPS protections nor benefits.

Secondly, the applicant must not be inadmissible. Generally, an individual seeking to be admitted into the United States must comply with the admissibility grounds identified by the INA.<sup>31</sup> However, according to Section 244 of the INA, all grounds of inadmissibility do not necessarily render an applicant ineligible from receiving TPS.<sup>32</sup> Instead, the section specifically lists certain mandatory ineligibility grounds for which an individual seeking TPS would be indisputably denied such status. This section of the law refers to serious crimes, security-related grounds and mandatory bars to asylum that cannot be waived. The following is a list of ineligibility grounds that would bar applicants from receiving TPS:

- Have been convicted of any felony or 2 or more misdemeanors committed in the United States<sup>33</sup>
- Crimes involving moral turpitude<sup>34</sup>
- Controlled substance violations<sup>35</sup>
- Multiple criminal convictions<sup>36</sup>
- Controlled substance trafficking<sup>37</sup>
- General security and related grounds<sup>38</sup>
- Terrorist activities<sup>39</sup>

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<sup>29</sup> INA § 244(c)(1)(A)(i)

<sup>30</sup> United States, Congress, Congressional Research Service, and Jill H Wilson. “Temporary Protected Status: Overview and Current Issues.” *Temporary Protected Status: Overview and Current Issues*, 48th ed., Congressional Research Service, 2018, pp. 5–15. RS20844.

<sup>31</sup> INA § 244a(c)(1)(A)(iii)

<sup>32</sup> INA § 244a(c)(2)(A)(i)

<sup>33</sup> INA § 212(c)(2)(B)(i)

<sup>34</sup> INA § 212(a)(2)(A)(i)(I)

<sup>35</sup> INA § 212(a)(2)(A)(i)(II)

<sup>36</sup> INA § 212(a)(2)(B)

<sup>37</sup> INA § 212(a)(2)(C)

<sup>38</sup> INA § 212(a)(3)(A)

<sup>39</sup> INA § 212(a)(3)(B)

- Adverse foreign policy consequences for the United States<sup>40</sup>
- Immigrant membership in totalitarian party<sup>41</sup>
- Participants in Nazi persecution, genocide, or the commission of any act of torture or extrajudicial killing<sup>42</sup>

Lastly, applicants who can establish prima facie on the requirements previously explained, must necessarily file within the registration window, which should be at least 180 days from the date DHS issues the “designation”.<sup>43</sup> Similarly, if an “extension” is issued, TPS recipients must re-register within the period announced by the same government agency.

<b>TPS HOLDERS BY COUNTRY OF ORIGIN</b>					
<b>Country</b>	<b>Most Recent Designation</b>	<b>Required Arrival Date</b>	<b>Expiration Date</b>	<b>Expected Re-registrants</b>	<b>Individuals with TPS</b>
El Salvador	Termination	February 13, 2001	September 9, 2019	195,000	262,526
Haiti	Termination	January 12, 2012	July 22, 2019	46,000	58,557
Honduras	Termination	December 30, 1998	January 5, 2020	57,000	86,031
Nepal	Termination	June 24, 2015	June 24, 2019	8,950	14,791
Nicaragua	Termination	December 30, 1998	January 5, 2019	2,550	5,305
Somalia	Extension	May 1, 2012	March 17, 2020	500	499
South Sudan	Extension	January 25, 2016	May 2, 2019	70	77
Sudan	Termination	January 9, 2013	November 2, 2018	1,040	1,048
Syrian	Extension	August 1, 2016	September 30, 2019	5,800	6,916
Yemen	Extension	January 4, 2017	March 3, 2020	1,250	1,116
<b>Total</b>				<b>317,660</b>	<b>436,866</b>

**Source:** United States Congress, Congressional Research Service, and Jill H Wilson. *Temporary Protected Status: Overview and Current Issues.* 48th ed., Congressional Research Service, 2018, pp. 5–15. RS20844.

<sup>40</sup> INA § 212(a)(3)(C)

<sup>41</sup> INA § 212(a)(3)(D)

<sup>42</sup> INA § 212(a)(3)(E)

<sup>43</sup> INA § 244a(c)(1)(A)(iv)

## The Effects of Terminating Temporary Protected Status

TPS is set to expire for hundreds of thousands of long-term foreign nationals in 2019, many of which have held provisional status for approximately 20 years. While numerous lawsuits have been filed against the Trump Administration in order to prevent the termination of TPS, a final decision, most likely delivered by the Supreme Court, will take many years.<sup>44</sup>

### The Process After TPS Ends

Normally, a TPS holder will lose his or her temporary status on the last day stated on the TPS Termination Notice. On that date, the individual will regress to any status held before he or she was awarded TPS or any other status the individual gained while under the protection of TPS. For example, if an individual had no lawful status before being granted TPS, he or she will revert to no lawful status once TPS ends.

Consequently, the repercussions of terminating TPS would be contingent upon the status of each individual's immigration case, particularly if the individual were ever placed in removal proceedings. If a decision were ever issued by an Immigration Judge during an individual's removal proceedings, this adjudication will likely define the ramifications he or she would face as a result of the cancellation of TPS. Furthermore, in recent years, several controversial changes undertaken by the Trump Administration, including Jeff Sessions' decision "Matter of Castro-Tum" and USCIS Policy Memo issued in June 2018, have placed additional restraints on the system and made individuals even more susceptible to deportation than before.<sup>45</sup>

### Overview of Removal Proceedings

The immigration laws of the United States found under the Immigration and Nationality Act (INA) have established a system by which the United States government determines an individual's removability based on the subject's eligibility for immigration relief. This, known as "removal" or "deportation" proceedings, is a process used to officially remove a foreign national once a judge determines that the individual has met any grounds of inadmissibility or of removability found under the INA.<sup>46</sup>

Removal proceedings are initiated when officers of the Immigration and Customs Enforcement (ICE) or U.S. Citizenship and Immigration Services (USCIS), divisions overseen by the DHS, serve a foreign national with a Notice To Appear (NTA). An NTA is a charging document that indicates DHS has officially begun the process to remove a foreign national from the United States and it must be served on the individual by mail or in person, as well as to the immigration court that holds jurisdiction over the individual's state of residence.<sup>47</sup>

The NTA must contain specific information, such as the "nature of the proceedings," "legal authority under which the proceedings are conducted," and "the acts or conduct alleged to be in

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<sup>44</sup> Riddle, Jennifer. "Challenges to TPS Terminations." *CLINIC*. Catholic Legal Immigration Network, Inc., last modified 10 Oct. 2018.

<sup>45</sup> 27 I&N Dec. 271; United States. Department of Homeland Security. U.S. Citizenship and Immigration Services. *Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*. USCIS, published on 28 June 2018

<sup>46</sup> INA § 240(a)(2)

<sup>47</sup> INA § 239(a)(1)

violation of law.<sup>48</sup> Most importantly, the NTA must reflect the statutory provisions the foreign national has violated, as well as all charges brought against the individual which makes him or her removable or inadmissible.<sup>49</sup> It is worth noting that some removability and inadmissibility grounds can be waived. The grounds of removability, found under Act 237 of the INA, apply to all foreign nationals who are admitted and inspected into the United States and possess some form of lawful status, such as a legal permanent resident (green card) or tourist (nonimmigrant) visa.<sup>50</sup> An individual who is not properly admitted into the United States can also be removed.<sup>51</sup> Under Section 212 of the INA, a foreign national seeking to be admitted into the United States must comply with all admissibility grounds. Moreover, the NTA summons an individual before an Immigration Judge at a specific time and place where the hearing will be held.<sup>52</sup> Removal proceedings are administered by the Executive Office for Immigration Review (EOIR), under the supervision of the Department of Justice, and the process of adjudicating these types of cases can take many years due to the amount of pending cases. Based on recently released statistics by EOIR, there are currently more than 697,000 pending cases in immigration courts across the United States.<sup>53</sup>

The Immigration Judge will ultimately issue a decision on whether or not the individual is eligible for immigration relief that would prevent his or her removal from the United States.<sup>54</sup> Most importantly, if the respondent's application for relief is denied, the judge will issue an order of removal to the foreign national, and he or she will be required to depart the United States after the order becomes permanent.<sup>55</sup> Additionally, if at any point during the removal process, the foreign national fails to appear at a scheduled immigration hearing, the judge presiding over the individual's case can order his or her removal *in absentia*.<sup>56</sup>

### **Recent Changes to Removal Proceedings and their Exacerbation of TPS Recipient Vulnerability**

There is great uncertainty around the steps the DHS may take once TPS expires for thousands of people. Moreover, several changes undertaken by the Trump administration in order to address that uncertainty have simply exacerbated the vulnerability of recipients, making them even more susceptible to deportation than before. As previously mentioned, once TPS terminates, a foreign national will revert back to the status he or she held before being granted TPS or any immigration status they acquired under TPS protection. This is especially true for those foreign nationals who have never been in removal proceedings in immigration court. For example, if an individual was not in removal proceedings before obtaining TPS, that individual will remain outside of removal or deportation proceedings, that is, if DHS does not issue an NTA.

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<sup>48</sup> INA § 239(a)(1)(A); INA § 239(a)(1)(B); INA § 239(a)(1)(C)

<sup>49</sup> INA § 240(a)(2)

<sup>50</sup> INA § 237(a)

<sup>51</sup> INA § 237(a)(1)(A)

<sup>52</sup> INA § 239(a)(1)(G)(i)

<sup>53</sup> United States. Department of Justice. Office of Public Affairs. *Executive Office for Immigration Review Releases Court Statistics, Announces Transparency Initiative*. Department of Justice, 09 May 2018. Web. 05 Nov. 2018; INA § 103(g)(1)

<sup>54</sup> INA § 240(c)(A); If at any point throughout the removal process, the foreign national fails to appear at a scheduled immigration hearing, the judge presiding over the individual's case will order him or her remove in absentia.

<sup>55</sup> Once the Immigration Judge has issued an order of removal, the foreign national has the right to appeal the decision within thirty calendar days to the EOIR Board of Immigration Appeals. United States Department of Justice. Executive Office of Immigration Review "Appeals of Immigration Judge Decision." *Practice Manual*. Ed. Board of Immigration Appeals. 2018. 49-73; INA § 240(c)(5)

<sup>56</sup> INA § 240(b)(5)(A)

## Removal Proceedings: Changes to NTA System

On June 28, 2018, the USCIS issued a memo titled “Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens.”<sup>57</sup> The policy memo outlines how DHS plans to prioritize the removal of foreign nationals from the United States, specifically those “based on criminal or security grounds, fraud or misrepresentation, and aliens subject to expedited removal.”<sup>58</sup> The document also vaguely expands upon how USCIS plans to issue NTAs to those individuals once TPS has been withdrawn.

According to the memo, “In individual TPS cases where USCIS denies an initial TPS application or re-registration or withdraws TPS, *and* the individual has no other lawful immigration status or other authorization to remain in the United States [...] officers will issue an NTA to such an alien [...] following the final determination to deny or withdraw TPS.”<sup>59</sup> USCIS specifies that these types of individuals “may become a DHS enforcement priority.”<sup>60</sup> As a result of this new NTA policy, thousands of TPS recipients who lack status or who do not qualify for any other immigration relief could be subjected to this mass issuance, speeding the repatriation of individuals to countries whose current social and economic conditions may not yet be adequate. Most importantly, this new policy gives authority to USCIS to issue NTAs to any individual who received TPS in the past “who is not lawfully present in the United States” and who has applied for and been denied any other immigration relief.<sup>61</sup>

It is unclear which DHS subdivision or department will enforce this new policy. The memo explains that based on the information quoted above “USCIS officers should defer to ICE and CBP [U.S. Customs and Border Patrol] regarding the appropriate timing of any NTA issuances to former TPS beneficiaries after the country’s TPS designation ends.”<sup>62</sup> This language appears to not only broaden the authority of who can issue NTAs, but it expands the scope of those former TPS beneficiaries who can be placed in removal proceedings, regardless of whether they applied for and were denied any other immigration benefit.

This new NTA policy is particularly dangerous for TPS holders, as many are not eligible for any other immigration relief. If, or when, an individual is placed in removal proceedings upon termination of his or her TPS status, he or she will have the opportunity to submit an immigration application to the Immigration Court. Nevertheless, if the Immigration Judge presiding over the matter ultimately determines that the foreign national is removable based on the person’s ineligibility

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<sup>57</sup> United States. Department of Homeland Security. U.S. Citizenship and Immigration Services (USCIS). *Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*. USCIS, published on 28 June 2018.

<sup>58</sup> Department of Homeland Security. U.S. Citizenship and Immigration Services, Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, 2.

<sup>59</sup> Department of Homeland Security. U.S. Citizenship and Immigration Services, Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, 4.

<sup>60</sup> Department of Homeland Security. U.S. Citizenship and Immigration Services, Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, 4.

<sup>61</sup> Department of Homeland Security. U.S. Citizenship and Immigration Services, Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, 4-5.

<sup>62</sup> Department of Homeland Security. U.S. Citizenship and Immigration Services, Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens, 4.

for any immigration relief, he or she will be required to depart the United States within a certain period of time.<sup>63</sup>

It is worth noting that under specific circumstances, being placed in removal proceedings provides an opportunity to apply for certain immigration reliefs that can only be filed defensively. For example, Cancellation of Removal is a type of relief available to certain foreign nationals who have been placed in removal proceedings and seek to remain in the United States due to the “exceptional and extremely unusual hardship” that the individual’s spouse, parent or children—which must be a U.S. citizen or permanent resident—would endure as a result of the deportation or removal of said individual.<sup>64</sup>

### **Removal Proceedings: Changes to the Administrative Closure System**

Another change that has exacerbated the vulnerability of TPS recipients has to do with “*administrative closure*,” which the Board of Immigration Appeals (BIA), regarded as the “highest administrative body for interpreting and applying immigration laws,” defined as a tool available to Immigration Judges and the BIA “to temporarily remove a case from an Immigration Judge’s active calendar or from the Board’s docket. In general, administrative closure may be appropriate to await an action or event that is relevant to immigration proceedings but is outside of the control of the parties or the court and may not occur for a significant or undetermined period of time.”<sup>65</sup>

Cases that are administratively closed by an Immigration Judge or the BIA have merely been removed from the judge’s docket and does not vacate the NTA issued to the foreign national, nor does it become a final order of removal.<sup>66</sup> Any immigration relief application that was not adjudicated by the Immigration Judge or the BIA during the removal process, will remain pending while the case is administratively closed.

Administrative closure was especially helpful for individuals who were in removal proceedings at the time they were granted TPS status. In many cases, Immigration Judges across the United States moved to defer an individual’s removal process off his or her active docket while the foreign national received temporary status. This procedural mechanism was particularly beneficial to TPS holders whose orders of removal were eminent due to their ineligibility for any other immigration relief at the time. In some instances, individual immigration cases that were taken off an Immigration Judge’s calendar, remained administratively closed long after the relevant TPS designation was rescinded.<sup>67</sup> This, however, appears to no longer be the case due to another recent change undertaken during the Trump administration.

On May 17, 2018, Attorney General (AG) Jeff Sessions, issued a decision, *Matter of Castro-Tum*, that invalidated the authority vested in Immigration Judges and the BIA to suspend an individual’s removal process from the United States.<sup>68</sup> It is the opinion of the Attorney General that under the powers and duties entrusted in Immigration Judges and the BIA through Section 103 of INA, adjudicators lack the authority to “grant indefinite suspensions”, as was effectively done

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<sup>63</sup> INA § 240(c)(5)

<sup>64</sup> INA § 240(b)(1); INA § 240(b)(1)(D)

<sup>65</sup> "Board of Immigration Appeals." *The United States Department of Justice*. N.p., 15 Oct. 2018. Web. 10 Nov. 2018; 25 I&N Dec. 688 (BIA 2012)

<sup>66</sup> "Board of Immigration Appeals." *The United States Department of Justice*. N.p., 15 Oct. 2018. Web. 10 Nov. 2018; 25 I&N Dec. 688 (BIA 2012)

<sup>67</sup> ILRC Attorneys, *After TPS: Options and Next Steps*, Immigrant Legal Resource Center, published in June 2018

<sup>68</sup> 27 I&N Dec. 271

through the administrative closure procedure.<sup>69</sup> Instead, the Attorney General restricted judicial competency to grant administrative closure only if, “a previous regulation or a previous judicially approved settlement expressly authorizes such action.”<sup>70</sup>

Furthermore, AG Sessions has also ordered Immigration Judges and the BIA to grant motions requesting a recalendar of any cases that did not comply with the “requisite authority.”<sup>71</sup> As a result, in recent months, DHS officials have not only declined to grant administrative closure in appropriate cases but have instead moved to recalendar or “reopen” thousands of cases that have been administratively closed for years.<sup>72</sup>

On June 15, 2018, the Office of the Principal Legal Advisor, the litigation department within ICE, released a guidance memo discussing the changes in policy following the publication of *Matter of Castro-Tum*, specifically the request to recalendar or reopen administratively closed cases. According to the memo, “there is no burden on the parties to provide a persuasive reason for recalendaring, or to provide any reason at all...rather, if a party moves for a case to be recalendared, the IJ shall recalendar the case.”<sup>73</sup>

The memo also explicitly states that “It is DHS’s intention to recalendar all cases that were previously administratively closed for reasons other than authorization by a regulation or judicially approved settlement agreement.”<sup>74</sup> In doing so, OPLA officers instituted a plan to prioritize the recalendaring of all administratively closed cases. The following is a list of priority cases:

- **Priority #1:** Cases in which the alien is detained
- **Priority #2:** Cases in which the alien has a criminal history, or where the cases involve human rights or national security issues.
- **Priority #3:** Cases in which DHS’s most recent motion to recalendar was denied.
- **Priority #4:** Cases administratively closed over DHS’s objection (e.g., interlocutory appeals for I-601A, U-visa, I-360, derogatory issues, etc.)
- **Priority #5:** Cases-by-case determination at the discretion of the local Chief Counsel considering available resources and the existing backlog in the local docket.<sup>75</sup>

Based on EOIR statistics, there are currently over 350,000 administratively closed cases in Immigration Court and the BIA.<sup>76</sup> Because EOIR does not release data specifying the reasons why such cases were closed it remains unclear how many foreign nationals in immigration proceedings received administrative closure due to a TPS grant.

*Matter of Castro-Tum* is particularly problematic for many TPS holders that received administrative closure due to their temporary status and do not qualify for any other immigration

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<sup>69</sup> Ibid.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Aaron Reichlin-Melnick, DHS to Restart Deportation Cases for Hundreds of Thousands of Immigrant, Immigration Impact, American Immigration Council, published on August 8, 2018.

<sup>73</sup> “ICE Provides Guidance to OPLA Attorneys on Administrative Closure Following *Matter of Castro-Tum*.” *American Immigration Lawyers Association*, American Immigration Lawyers Association, published on 15 June 2018.

<sup>74</sup> Ibid.

<sup>75</sup> Ibid.

<sup>76</sup> United States. Department of Justice. Office of Public Affairs. *Executive Office for Immigration Review Releases Court Statistics, Announces Transparency Initiative*, Department of Justice, published on 09 May 2018.

relief. While it is uncertain where each TPS beneficiary falls on the priority list, DHS could, at any time, move to reopen immigration proceedings of all individuals currently under the protection of TPS. Regardless of their temporary status, individuals can be summoned to appear before an Immigration Judge in order to adjudicate any pending immigration relief applications. As it has been previously explained, the Immigration Judge will ultimately issue a decision on whether the individual is eligible for an immigration relief that would prevent his or her removal from the United States.<sup>77</sup> If the respondent's application for relief is denied, the judge will issue an order of removal to the foreign national, and he or she will be required to depart the United States once the order becomes permanent.<sup>78</sup>

### **Removal Proceedings: Final Order of Removal and Changes to How USCIS Prioritizes Removal Enforcement**

The consequences of withdrawing Temporary Protected Status (TPS) for individuals whose removal proceedings concluded with removal or "deportation" orders will be devastating not only for the individuals themselves but also for their families. In essence, if a TPS holder received an order of removal at any point during immigration proceedings, the order will become effective and he or she will be legally required to depart the United States at the conclusion of his or her TPS protection.

On June 28, 2018, USCIS published a policy memo providing guidance to USCIS officers on how to prioritize the removal of individuals. Based on the memo, USCIS intends to prioritize the removal of foreign nationals who have received an order of removal but have failed to depart the United States. The following is a list of aliens whose removability is prioritized:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense that has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but have not departed; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.<sup>79</sup>

Based on this newly released policy memo, many TPS beneficiaries who have outstanding orders of removal or deportation may become subject to DHS's enforcement priority. While TPS prevents an individual from being removed from the United States while that status remains valid, DHS can, and most likely will, enforce the removal order once it has expired.<sup>80</sup>

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<sup>77</sup> INA § 240(c)(A)

<sup>78</sup> Once the Immigration Judge has issued an order of removal, the foreign national has the right to appeal the decision within thirty calendar days to the EOIR Board of Immigration Appeals. United States Department of Justice. Executive Office of Immigration Review "Appeals of Immigration Judge Decision." *Practice Manual*. Ed. Board of Immigration Appeals. 2018. 49-73; INA § 240(c)(5)

<sup>79</sup> United States. Department of Homeland Security. U.S. Citizenship and Immigration Services. *Policy Memo-Updated Guidance for the Referral of Cases and Issuance of Notices to Appear (NTAs) in Cases Involving Inadmissible and Deportable Aliens*. USCIS, published on 28 June 2018.

<sup>80</sup> INA § 244(a)(a)(1)(A)



Once an order of removal becomes final, the individual must first successfully vacate such an order. In order to vacate a removal order, an individual must persuade the Immigration Court or BIA to reopen the his or her case to consider evidence that was previously unavailable to the respondent.<sup>81</sup> Only then can an individual be eligible for any other immigration relief. As it was explained earlier, an individual who was found removable based on certain grounds of inadmissibility is not eligible for any immigration benefit.<sup>82</sup> If a TPS holder who has an order of removal is eligible to obtain a more permanent immigration status, he or she can attempt to reopen immigration proceedings in order to petition the Immigration Judge to cancel the outstanding removal order against him or her. This, however, is difficult to attain. Normally, according to Section 240 of INA, a request to reopen removal proceedings needs to be filed within 90 days from the time the order of removal becomes final,<sup>83</sup> although motions to reopen based on changes in country conditions, for asylum purposes, do not have a time limit.<sup>84</sup> Additionally, if a foreign national received an order of removal in absentia, he or she must file a motion to reopen based on “exceptional circumstances” within 180 days since the order was issued.<sup>85</sup>

Given these strict standards, it would be extremely difficult for an individual to successfully reopen a case in immigration court, not to mention vacate the outstanding removal order in order to apply for lawful immigration status. In cases that were adjudicated long ago, the TPS holder seeking to cancel a deportation order is likely to receive a denial on a motion to reopen immigration proceedings. Once a TPS beneficiary reverts back to an order of removal following a TPS termination, he or she must be prepared to depart the United States. All in all, these recent changes to the NTA issuance system, the administrative closure system and the way removal proceedings are prioritized have all made TPS recipients more vulnerable to deportation than before, which means designated countries are increasingly at risk of facing mass repatriations, the consequences of which I will analyze in the next section.

### **The Unintended Effects of Repatriation: The Case of the Northern Triangle of Central America**

The effects ensued due to the termination of TPS on individuals who have long called this nation home will go beyond the borders of the United States. Hundreds of thousands of people will ultimately need to depart the country if no other immigration relief is available to them. These nationals will be compelled to return to their countries of origin, creating a mass repatriation of individuals to countries that are ill-equipped to handle such a job.

The purpose of Temporary Protected Status is to “temporarily” provide humanitarian security to individuals living in the United States who are unable to safely return to their countries of origin. However, the program lacks guidance on how the American government is to successfully repatriate these individuals without further destabilizing fragile nations whom, to an extent, are still recovering from the extreme conditions that led to the original TPS designation. While it is impossible to determine how each nation will handle the reintegration of hundreds of thousands of individuals who have lived in the U.S. for long periods of time, history has taught us that mass deportations often lead to regional destabilization, which then creates a surge in illegal immigration back to the United States.

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<sup>81</sup> 8 U.S.C. § 1229a(c)(7)

<sup>82</sup> INA § 212(a)(9)(A)

<sup>83</sup> INA § 240(c)(7)(C)(i)

<sup>84</sup> INA § 240(c)(7)(C)(ii)

<sup>85</sup> INA § 240(b)(5)(C)(i)

For example, consider the countries in the Northern Triangle of Central America—Guatemala, El Salvador and Honduras. These countries are consistently ranked as some of the most violent nations not at war due to the high homicide rates perpetrated by transnational criminal organizations such as the MS-13 and Barrio 18 gangs—criminal enterprises that originated in the streets of Los Angeles, California.<sup>86</sup>

During the 1980s, hundreds of thousands of Central Americans fled their home countries as political unrest slowly turned into civil conflict. The Migration Policy Institute estimated that over one million people from El Salvador and Guatemala arrived in the United States between 1981 and 1990.<sup>87</sup> Moreover, many of those fleeing the violence were children and teenagers.

Consequently, Barrio 18 and MS-13 gangs emerged in the mid-1980s after the majority of these Central American immigrants settled in California.<sup>88</sup> In part because of their vulnerability as immigrants, many of those individuals sought protection from “other Latino gangs” and found a way to connect with other fellow nationals by joining these local cliques.<sup>89</sup> By the early 1990s, both organizations had grown to hundreds of members that were heavily involved in crime and violence throughout California.<sup>90</sup> This forced state officials to adopt anti-gang rules, including charging “young gang members as adults instead of minors, sending hundreds to jail for felonies and other serious crimes.”<sup>91</sup>

Impelled by an anti-immigrant attitude following the terrorist attacks in Oklahoma and New York City in the early 1990s and the rise of gang violence across the United States, Americans looked at tougher immigration laws as a solution.<sup>92</sup> In 1996, President Bill Clinton signed into law the Illegal Immigration Reform and Immigration Responsibility Act of 1996 (IIRIRA), a set of provisions to amend the INA that included newly added penalties for immigrants unlawfully present in the U.S. who committed crimes, as well as for those who overstayed their non-immigrant visas.<sup>93</sup> The Act also expanded the role of Border Patrol agents in an effort to improve border security.<sup>94</sup>

Under the IIRIRA, all immigrants living in the United States that were convicted of a certain crime were now removable, including lawful permanent residents.<sup>95</sup> The Clinton Administration drastically expanded the crimes and the length of time that were now considered an “aggravated felony” under immigration law.<sup>96</sup> Furthermore, the term “conviction” under the INA was modified to include instances when:

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<sup>86</sup> EFE, and AFP. "Centroamérica Se Desangra Por Aumento De La Violencia." *Prensa Libre*, last modified 29 Jan. 2018.

<sup>87</sup> Gzesh, Susan. "Central Americans and Asylum Policy in the Reagan Era." *Migration Policy Institute*. MPI, last modified on 02 Mar. 2017

<sup>88</sup> Dudley, Steven, and Hector Avalos. *MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction*. Rep. InSight Crime & Center For Latin American & Latino Studies, last accessed on 19 Dec. 2018

<sup>89</sup> Dudley, Steven, and Hector Avalo, *MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction*

<sup>90</sup> Dudley, Steven, and Hector Avalos, *MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction*.

<sup>91</sup> Dudley, Steven, and Hector Avalos, *MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction*.

<sup>92</sup> Douglas S Massey, Karen A. Pren, “Unintended Consequences of US Immigration Policy: Explaining the Post-1965 Surge from Latin America” U.S. National Library of Medicine National Institutes of Health, No. 38(1) (2012): 8-9, PMC3407978.

<sup>93</sup> Pub. L. 104-208 Sec. 301(b)(1)(B)(i)

<sup>94</sup> Pub. L. 104-208 Sec. 101.

<sup>95</sup> Pub. L. 104-208 Sec.321(a)(1)

<sup>96</sup> Ibid.

- A judge or jury has found the alien guilty or the alien has entered a plea of guilty or nolo contendere or has admitted sufficient facts to warrant a finding of guilt.<sup>97</sup>

- A judge has ordered some form of punishment, penalty, or restraint on the alien's liberty to be imposed.<sup>98</sup>

- Any reference to a term of imprisonment or a sentence with respect to an offense is deemed to include the period of incarceration or confinement ordered by a court of law regardless of any suspension of the imposition or execution of that imprisonment or sentence in whole or in part.<sup>99</sup>

Importantly, the latter was also retroactive, meaning any foreign national who had been convicted of a crime at any point before the IIRIRA went into effect, was subject to removal or deportation.<sup>100</sup> The list of convictions for which a person could be placed in removal proceedings included drug possession, forgery and shoplifting.

In 1997 alone, The United States government deported over 114,000 foreign nationals.<sup>101</sup> This was an alarming increase from roughly 70,000 individuals who were removed a year before the IIRIRA was passed.<sup>102</sup> As the next section will analyze, although this was motivated by a desire to reduce crime, these escalating mass deportations were actually counterproductive to such a goal.

### **Understanding the Root of Today's Problem**

As IIRIRA took effect, the Department of Homeland Security (DHS) began to aggressively deport thousands of people back to their home countries, especially those with a criminal history. While a percentage of those individuals were members of the Barrio 18 and MS-13 gangs, others were solely removed for possessing a criminal conviction, regardless of the type of crime they were found guilty of.<sup>103</sup> These enforcement efforts led to a mass repatriation and gang migration back to Northern Triangle countries, a region in Latin America that had finally begun to recuperate from years of civil unrest. Between 1998 and 2007, DHS removed over 307,000 foreign nationals to Central America, with more than 76,000 being convicted criminals.<sup>104 105</sup> Moreover, 74,000 out of those 76,000 were specifically repatriated to the Northern Triangle.<sup>106</sup>

Many of the deportees were members of the MS-13 and Barrio 18 gangs who had arrived to the United States at a very young age but had never obtained lawful permanent status or citizenship. Once they were sent back to countries they barely knew, these individuals employed the same “structures and behavior patterns that had provided them with support and security in the United States.”<sup>107</sup> This time, the bond rested on “gangsterism in the United States, deportation, and

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<sup>97</sup> Pub. L. 104-208 Sec. 322(a)(1)(48)(A)(i)

<sup>98</sup> Pub. L. 104-208 Sec. 322(a)(1)(48)(A)(ii)

<sup>99</sup> Pub. L. 104-208 Sec. 322(a)(1)(48)(B)

<sup>100</sup> Pub. L. 104-208 Sec. 322(a)(2)(c)

<sup>101</sup> *Interior Immigration Enforcement by the Numbers*, Issue brief, Bipartisan Policy Center, published on Mar. 2014.

<sup>102</sup> *Ibid.*

<sup>103</sup> Mary Helen Johnson, “National Policies and the Rise of Transnational Gangs, Migration Policy”, *Migration Policy Institute*, published on April 1, 2006.

<sup>104</sup> “2007 Yearbook of Immigration Statistics.” *Office of Immigration Statistics* Department of Homeland Security, last modified on September 2008.

<sup>105</sup> *Ibid.*

<sup>106</sup> *Ibid.*

<sup>107</sup> Dudley, Steven, and Hector Avalos, *MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction*. Rep. InSight Crime & Center For Latin American & Latino Studies, last accessed on 19 Dec. 2018.

stigmatization in Central America.”<sup>108</sup> Soon after their arrival, deportees formed local groups that pledged allegiance to either the MS-13 or the Barrio 18 gang. They also raised the scale of their crimes by “taking advantage of the weak law enforcement and justice system of these countries.”<sup>109</sup>

The violence experienced by the populations of Central America’s Northern Triangle is no different than those who live in a country at war: killings, kidnappings and extortions are ordinary experiences, different criminal groups propagate insecurity and forcibly recruit individuals to expand their organizations, and finally, sexual violence is often used as a tool of intimidation and control. These threats of violence create an increasingly difficult environment for the citizens of these countries, especially considering the fact their governmental institutions often struggle to satisfy their basic needs.

The Global Study on Homicide released by the UN Office on Drugs and Crime (UNODC) in 2013 placed Honduras and El Salvador in the first and fourth places within the list of countries with the highest murder rates.<sup>110</sup> It is estimated that over 50,000 people were killed in the Northern Triangle countries between 2005 and 2014.<sup>111</sup> In 2015, El Salvador reported approximately 6,650 homicides (a shocking rate of 103 per 100,000 people), Honduras reported 8,035 homicides. and Guatemala reported a total of 4,778.<sup>112</sup>

Between 2015 and 2016, the crime and violence rates in the Northern Triangle region reached staggering levels not seen since the 1980s, which forced many to seek protection elsewhere. Thousands of women and unaccompanied minors have made the dangerous journey to the United States in an attempt to avoid falling victims of the violence caused by these now embedded criminal organizations. By the end of the 2015 fiscal year, USCIS reported that over 68,000 unaccompanied children arrived at the U.S.-Mexican border.<sup>113</sup> Furthermore, approximately 68,000 family units and 342,000 individuals were apprehended by Customs and Border Patrol (CBP) at different ports of entry along the southwest border.<sup>114</sup>

While El Salvador, Honduras and Guatemala have seen a decline in murder rates in the last year, the Northern Triangle region continues to be ranked as one of the most dangerous places in the planet.<sup>115</sup> In 2017, the National Civil Police of El Salvador reported that 3,954 people were murdered across the country, a 26% decrease from the rates between 2016 and 2017.<sup>116</sup> The neighboring country of Honduras also reported a decline, registering 3,466 homicides in 2017, a

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<sup>108</sup> Dudley, Steven, and Hector Avalos, MS13 in the Americas: How the World's Most Notorious Gang Defies Logic, Resists Destruction.

<sup>109</sup> Viswanathan, R. "What Lies Behind Central America's Gang Violence." *The Wire*, last modified on 09 May 2018.

<sup>110</sup> "Global Study on Homicide 2013." *United Nations Office on Drugs and Crime*, United Nations, accessed on 20 Dec. 2018

<sup>111</sup> United Nations Office on Drugs and Crime, Global Study on Homicide 2013.

<sup>112</sup> "Forzados A Huir Del Triangulo Norte de Centroamerica: Una Crisis Humanitaria Olvidada." *Médicos Sin Fronteras*. Medicos Sin Fronteras, published on May 2017.

<sup>113</sup> "Southwest Border Migration FY 2016." *U.S. Customs and Border Protection*. Department of Homeland Security, published on 18 Oct. 2016.; The term "unaccompanied child" is given to a youth who—a) has no lawful immigration status in the United States; b) has not attained 18 years old age; c) has no parent or guardian in the United States

<sup>114</sup> "Southwest Border Migration FY 2016." *U.S. Customs and Border Protection*. Department of Homeland Security, last modified on 18 Oct. 2016.

<sup>115</sup> Muggah, Robert, Ilona Szabó De Carvalho, and Katherine Aguirre. "Latin America Is the World's Most Dangerous Region, But There Are Signs It Is Turning A Corner" *World Economic Forum*, World Economic Forum, last modified on 14 Mar. 2018.

<sup>116</sup> Muggah, Robert, Ilona Szabó De Carvalho, and Katherine Aguirre, Latin America Is the World's Most Dangerous Region, But There Are Signs It Is Turning A Corner.

drop from the 4,760 murders registered at that same time in 2016.<sup>117</sup> Equally important is the decline in violence seen in Guatemala. In 2017, the Guatemalan government reported that 4,400 people fell victim to the country's violence, which was a slight decrease from the 2016 numbers.<sup>118</sup>

In 2017, the State Department released its annual Human Rights Report for El Salvador, which noted several statistics related to the number of displaced persons as a result of violence and crime in the country.<sup>119</sup> Most notably, the report indicated that a high number of individuals would still seek to migrate to a different country in the following year. Consequently, even with these gradual declines in murder and crime rates, the rate of individuals fleeing the violence in the Northern Triangle region has shown no signs of decelerating. In 2018, the United States government saw, once again, an influx of individuals seeking refuge at the southwest border of the United States. CBP reported the apprehension of a total of 396,579 people, including over 50,000 unaccompanied children and 107,212 family units.<sup>120</sup> In comparison, the same government agency recorded a total of 303,916 people apprehended along the U.S.-Mexican border in 2017.<sup>121</sup>

Despite having to suffer some of the worst forms of violence in the world today, migrants and refugees from the Northern Triangle region of Central America continue to be treated as primarily economic migrants by countries like Mexico or the U.S. This means that those forced to flee from Honduras, El Salvador, and Guatemala have little access to asylum status in these countries despite their needs and the existence of legal frameworks for asylum. Nearly 500,000 people from these countries enter Mexico every year, a migratory flow that does not only have economic roots but is part of a broader humanitarian crisis.<sup>122</sup> While it may be true that there are individuals who leave the region primarily in search for better economic opportunities, there is undeniable evidence that a clear pattern of violence exists, which has forced hundreds of thousands to flee in order to survive.

As evidenced by this case, although it may have originated as an attempt to reduce crime, the mass deportations of "bad hombres" as President Trump describes them, has not had that intended effect.<sup>123</sup> In fact, these large repatriations to countries incapable of handling such an influx of individuals has led to an increase in crime that the Honduran, Salvadoran, and Guatemalan governments have not been able to control and has in turn forced a new surge of individuals seeking refuge in the United States in recent years. Consequently, the intended termination of several TPS designations in the upcoming years, along with the previously analyzed changes to the NTA, administrative closure and removal proceedings systems may very well replicate this crisis once again.

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<sup>117</sup> Muggah, Robert, Ilona Szabó De Carvalho, and Katherine Aguirre, Latin America Is the World's Most Dangerous Region, But There Are Signs It Is Turning A Corner; Interfaz. "Honduras Proyecta Una Baja De 13 Puntos En La Tasa De Homicidios De 2017." *Diario El Heraldo*. El Heraldo, last modified on 28 Dec. 2017.

<sup>118</sup> "Guatemala 2018 Crime & Safety Report." *Bureau of Diplomatic Security*, United States Department of State, last modified on 09 May 2018

<sup>119</sup> "The Hidden Problem of Forced Internal Displacement in Central America." Wilson Center, last modified on 17 Sept. 2018

<sup>120</sup> "Southwest Border Migration FY 2018." *U.S. Customs and Border Protection*. Department of Homeland Security, last modified on 09 Nov. 2018

<sup>121</sup> "Southwest Border Migration FY 2017." *U.S. Customs and Border Protection*. Department of Homeland Security, published on 15 Dec. 2017.

<sup>122</sup> The Refugee Agency, United Nations, "Mexico: Factsheet", published on Feb. 2017.

<sup>123</sup> Moreno, Carolina. "Here's Why Trump's 'Bad Hombres' Comment Was So Offensive." *The Huffington Post*. The Huffington Post, published on 26 Oct. 2016.

## Conclusion

The effects of terminating Temporary Protected Status are not restricted to the United States. There are hundreds of thousands of individuals, many of which are unaccustomed to the current conditions of their origin countries, who will ultimately be forced to return. Deporting those who are unacquainted with the environment in their home countries may potentially put their lives in danger, particularly those repatriated to countries that have not fully recovered from the extraordinary conditions that led to the original TPS designation.

Furthermore, these mass deportations of individuals to fragile nations often lead to further regional destabilization, which fosters new surges in illegal immigration to the United States. This paper delved into the example of the Northern Triangle of Central America, which has seen staggering levels of violence in recent years in part due to the mass deportations of gang members by the United States government in the late 1990s. As a result of this, the United States is presently experiencing a new influx of individuals at the U.S.-Mexican border—individuals seeking refuge from this new cycle of violence afflicting their home countries.

These risks are inherent to the fact the TPS system works within the core immigration laws of the United States, which have been designed in a way that any person who is not authorized to remain in the country or does not qualify for immigration relief must depart or be forcibly removed. Consequently, the immigration consequences of ending TPS are bound to be devastating for both the individuals who are unable to attain any other immigration relief as well as the home countries facing the prospect of these mass repatriations. Unfortunately, this deportation prospect has been made even more imminent by several actions undertaken by the Trump administration to change the NTA issuance system, the administrative closure system, and the way removal proceedings are prioritized. If the United States continues to go down this path, TPS recipients, many of which have not left the United States since the 1990s, will ultimately be forced to return in a swift and massive manner to their countries of origin, which lack many of the social and economic conditions necessary for a harmonious repatriation. This will reinforce a harmful cycle of illegal immigration and place even further stress upon an immigration system the Trump Administration is explicitly trying to “fix.”

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# The Price of Modern Prosperity: The Significant Challenges China Faces in Establishing a Consumption-Based Economy

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Mark Mora

## I. Introduction

Over the past few decades, China has seen a modern, unprecedented surge in economic productivity, industrialization, urbanization, and general social mobility. In 2017, the Chinese economy experienced one of its highest GDPs on record.<sup>1</sup> Recent demographic data suggests that the middle and upper-middle classes are growing and exercising their purchasing power in novel and exciting ways, such as luxury shopping, real estate ownership, and travel.<sup>2</sup> The domestic tourism industry is incredibly robust; the technology and service sectors are widening at a rapid pace.<sup>3</sup> In coastal and more inland cities, such as Beijing, Tianjin, and Shanghai, as well as in Southern megacities such as Guangzhou and Shenzhen, property values have soared and population quotas have been fulfilled.<sup>4</sup> In light of these aforementioned developments, amongst others, the Chinese government under President Xi Jinping has claimed that it will continue to pursue a consumption-driven growth model. According to the government, its goal is to complete the transition from an economy primarily defined by property investment, the manufacturing industry, and the export of goods and products to one driven by the expansion of the service and technology sectors by the year 2020.<sup>5</sup> This commitment has been accompanied by a renewed interest on the part of governmental actors in tackling the social stratification and economic disparities historically caused by the *hukou* system, a central instrument of the Chinese command economy that is often credited with helping to fuel its rapid and impressive growth. In 2014, the Chinese government announced its most ambitious plan yet for reforming the *hukou* system over the next few years. These reforms included lessening restrictions to spur heightened intra-border migration, providing rural *hukou* holders with better welfare benefits and educational opportunities for their children, and eradicating the political and economic distinctions made on the basis of *hukou* status.<sup>6</sup> Yet in the early aftermath of these recent reforms, the internal, politically-sanctioned inequality, enabled and reinforced by the *hukou* system, has nevertheless continued to produce socioeconomic disparities between rural-to-urban migrants and those who already have urban *hukou* status, particularly among the newer generation of rural migrants that have made their way to second and third-tier cities. These disparities now threaten to interfere with, and ultimately endanger, China's realization of a consumption-based economy, as well as its efforts to lower its debt by curtailing its dependence on credit.

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<sup>1</sup> Trading Economics, "China GDP," accessed April 15, 2019, <https://tradingeconomics.com/china/gdp>.

<sup>2</sup> ChinaPower, "How Well-off Is China's Middle Class?" *ChinaPower Project*, December 03, 2018, accessed April 15, 2019, <https://chinapower.csis.org/china-middle-class/>.

<sup>3</sup> Cheng Si, "Tourist Numbers in China See Steady Rise," *The Telegraph*, February 13, 2018, accessed April 15, 2019, <https://www.telegraph.co.uk/news/world/china-watch/travel/china-tourism-grows/>.

<sup>4</sup> Xueliang Chen, "Property Prices Continue To Surge In China Despite Government Cooling Measures — Here's Why," *Forbes*, May 07, 2018, accessed April 15, 2019, <https://www.forbes.com/sites/nusbusinessschool/2018/05/07/property-prices-continue-to-surge-in-china-despite-government-cooling-measures-heres-why/#65fc5bde6d2d>.

<sup>5</sup> Xinhua, "Xi Calls for Boosting Fundamental Role of Consumption in China's Economic Growth," *XinhuaNet*, October 18, 2017, accessed April 15, 2019, [http://www.chinadaily.com.cn/china/19thcpnationalcongress/2017-10/18/content\\_33404765.htm](http://www.chinadaily.com.cn/china/19thcpnationalcongress/2017-10/18/content_33404765.htm).

<sup>6</sup> Gucki Riva and Alain Hénaut, "Urban Policies in China Part I," *Report for the IHEST* (December 2015): 1-22, accessed April 15, 2019, [https://www.ihest.fr/IMG/pdf/urban\\_policies\\_in\\_china\\_part\\_i.pdf](https://www.ihest.fr/IMG/pdf/urban_policies_in_china_part_i.pdf).

## II. The History of the *Hukou* System and Its Reforms

In 1958, the National People's Congress of China passed the *People's Republic of China Hukou Registration Regulation*, a policy regulation that effectively created the first modern, urban-rural household registration system in the country.<sup>7</sup> This system, informally known as *hukou* and formally known as the *hujū* system, divided and regulated the Chinese population by categorizing them according to their place of birth. The law classified citizens as either agricultural or non-agricultural *hukou* holders depending on where they were born, and subsequently allocated certain rights and privileges to Chinese citizens depending on their *hukou* status.<sup>8</sup> At critical junctions throughout the historical record, urban *hukou* holders have arguably benefited more from their status than those with rural *hukou*, sometimes at the direct expense of their counterparts. From 1958 to 1962, during China's initial transition from agriculture to industry under the Great Leap Forward program, those with urban *hukou* received preferential treatment in the form of rations for basic necessities, such as food. They were also provided with subsidized housing, employment opportunities, high-quality education opportunities for their children, and retirement pensions.<sup>9</sup> Rural citizens, on the other hand, were given none of these beneficial allowances. In fact, during the Great Chinese Famine that followed in the Great Leap Forward's wake, the collectivization of agriculture in rural areas ended up providing urban residents with state-sponsored rations that allowed them to survive, while those with agricultural *hukou* status perished in significant and disproportionate numbers.<sup>10</sup>

Since its inception, the *hukou* system has only been reformed three times, the first of which occurred nearly 20 years after it was originally conceived.<sup>11</sup> After the end of the Great Famine and the death of Mao Zedong in 1976, the economy began to gradually liberalize under Deng Xioping, adopting and reflecting a more market-oriented, socialist framework. Between the 1980s and the 1990s, the government under Xioping introduced incremental measures to lessen restrictions on migration and facilitate conversion from rural to urban *hukou* status.<sup>12</sup> Intra-border migration from the rural countryside to smaller-scale, second-tier cities and townships was permitted; the *hukou* classification process was also effectively decentralized, allowing provincial and civil governments to exercise discretion over their own *hukou* conversion proceedings.<sup>13</sup> The majority of those with rural *hukou* opted to migrate to these second-tier cities in droves, enticed by the prospects of economic self-determination and increased opportunities for employment, as the flow of migration into the largest cities, such as Beijing and Shanghai, was, and still is, heavily regulated by the state.<sup>14</sup> As Chuanbo Chen and C.C. Fan state, “[by] 1983, the number of migrants who had left their hukou location for another town, township, or street for six months or more was only two million. By 2014, the number and percentage were 253 million and 18.5 percent, respectively. Such heightened mobility...made the distinction between having local *hukou* (本地戶口 *bendi hukou*) and...nonlocal

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<sup>7</sup> Congressional-Executive Commission on China, *Special Topic Paper: China's Household Registration System: Sustained Reform Needed to Protect China's Rural Migrants* (2005), accessed April 15, 2019, <https://www.cecc.gov/publications/issue-papers/cecc-special-topic-paper-chinas-household-registration-system-sustained>

<sup>8</sup> Chang Liu and Wei Xiong, “China's Real Estate Market,” in *The Handbook of China's Financial System*, edited by Marlene Amstad, Guofeng Sun and Wei Xiong (2018), accessed April, 15, 2019, <http://wxiong.mycpanel.princeton.edu/papers/HousingChapter.pdf>.

<sup>9</sup> Jasper Becker, “Life in the Cities,” in *Hungry Ghosts: Mao's Secret Famine* (Holt Paperbacks, 1998): 220–232.

<sup>10</sup> *Ibid.*

<sup>11</sup> Chuanbo Chen and C. Cindy Fan, “China's Hukou Puzzle: Why Don't Rural Migrants Want Urban Hukou?” *China Review* no. 3 (2016): 9.

<sup>12</sup> *Ibid.*, 10-11.

<sup>13</sup> *Ibid.*, 9.

<sup>14</sup> *Ibid.*, 10-11.



hukou (外地戶口 *waidi hukou*) — the former referring to someone who stays at their *hukou* location and the latter referring to migrants who stay at a place other than their *hukou* location — an important part of life in China.”<sup>15</sup> However, on account of their rural status, early migrants with non-urban *hukou* were often discriminated against by local city officials and employers, who had little legal incentive to regard them as more than an expendable reservoir of labor. To this day, in contrast to their more urbanized peers, rural migrants and their offspring are offered less monetary compensation for similar work, as well as little to no employment benefits, if and when they can find employment at all.<sup>16</sup>

The second wave of *hukou* reform occurred between the early 1990s and 2013. It was supposed to build upon earlier improvements by easing the rural-to-urban *hukou* conversion process for migrants in possession of a certain amount of financial and human capital (expressed in technical or entrepreneurial skills), as well as a high level of education.<sup>17</sup> The relatively few number of rural migrants who qualified were eligible to receive a blue stamp on their *hukou* documents that gave them access to the same social welfare programs enjoyed by urban *hukou* holders. Rural migrants who lacked capital and skills, but could prove stable employment in these smaller cities, such as Tianjin, were also endowed with urban *hukou* benefits.<sup>18</sup> But then, in 1999, the Chinese government passed a mandate that legalized the transfer of urban *hukou* status from parent to offspring, and the children of those with urban *hukou* designation were granted the right to inherit the status of their parents, much like rural *hukou* children had been obliged to do since the system came into effect.<sup>19</sup> This further entrenched rural and urban divisions by legally codifying the heritability of urban *hukou* status. Thus, these reforms ultimately proved superficial, doing little to ameliorate the deep-seated disparities between rural and urban *hukou* holders or eliminate the agricultural-nonagricultural dichotomy created by the *hukou* system’s categorical framework. By the end of 2003, large swaths of rural migrants were forced to return to the countryside and their respective regions of origin. Many of them had abstained from obtaining the temporary permits necessary to remain in their chosen city of residence, typically because they did not have the financial means to do so.<sup>20</sup>

In 2014, the central Chinese government sought to implement the most recent wave of *hukou* reforms. It introduced an exhaustive list of conditions and policies meant to finally address and offset not only the legacy of the hukou program, but the socioeconomic stratification caused by its economic strategy of controlled urbanization. Some of the defining features of the *National Urbanization Plan for 2014-2020* included the provision of social welfare benefits, subsidized healthcare and housing, and quality education to 90% of rural migrants residing in cities by the year 2020; the weakening of migratory restrictions for small towns, third-tier, and second-tier cities, in accordance with their respective population sizes and projected growth rates; and a focused abolition of legal and social distinctions between rural and urban *hukou* status in cities throughout the country, both large and small-scale alike.<sup>21</sup> And on February 11, 2016, two years after these proposals were introduced, the Chinese Ministry of Public Security announced that it had issued

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<sup>15</sup> Ibid., 11.

<sup>16</sup> Xiangdong Wei, “Labor Market Segregation and the Wage Differential between Resident and Migrant Workers in China,” Department of Economics, Lingnan University (August 2007): 1–22.

<sup>17</sup> C. Cindy Fan, “Migration, Hukou and the City,” in *China Urbanizes: Consequences, Strategies, and Policies*, edited by Shahid Yusuf and Tony Saich (World Bank Publications, 2008).

<sup>18</sup> Chen and Fan, 24.

<sup>19</sup> Ibid.

<sup>20</sup> Cui Rong and Jeffrey Cohen, “Reform and the Hukou System in China,” *Migration Letters* 12, no. 3 (Sept. 2015): 327.

<sup>21</sup> Ali Cheshmehzangi, “China’s New-type Urbanisation Plan (NUP) and the Foreseeing Challenges for Decarbonization of Cities: A Review,” *Energy Procedia* 104 (2016): 146-152.

“28.9 million new urban residency permits in 2016, with 1.69 million issued in Beijing, 406,000 in Shanghai, 810,000 in Guangzhou, and 1.71 million in Shenzhen.”<sup>22</sup> Finally, it seemed that the circumstances affecting rural *hukou* holders and their offspring were becoming less precarious, that a concerted effort was being made to remedy the *hukou* problem.<sup>23</sup> But because local and regional governments have the ability to devise and amend rural-to-urban status regulations, especially those situated in China’s larger cities, they would go on to establish points-based policies founded around exacting sets of selection criteria. This has made it exceedingly difficult for migrant workers to obtain urban *hukou* in any of these aforementioned places. As a result, these migrant workers have been legally prevented from gaining any sort of socioeconomic foothold in most of the country’s most attractive locales.

### III. The Effects of Points-Based Migration Policies

For example, in April 2018, after a number of successful pilot initiatives in neighboring cities such as Shanghai and Xi’an, the Xinhua News Agency, China’s official, state-controlled media and press organization, confirmed that a points-based selection policy had been adopted and put into effect in Beijing by the city’s government.<sup>24</sup> As with previous housing market policy initiatives, the prerequisites for urban *hukou* registration under this new points-based system were loosened in such a way that rapid population growth in the city could be controlled, regulated, and if necessary, suppressed. Non-native migrant workers interested in receiving urban *hukou* documentation and privileges in Beijing would have to participate in a competitive application process that considered their length of residence, level of employment, social standing, educational background, and history of compliance with local laws and regulation prior to providing them with urban *hukou* status.<sup>25</sup> For migration to smaller, second-tier cities, this points-based policy was noticeably absent from the list of prerequisites; the Chinese Ministry of Public Security would later articulate that it did not apply in “cities with less than 3 million permanent residents in downtown areas.”<sup>26</sup> In other words, for the majority of Chinese migrants, these government-sanctioned policies deliberately made it much easier to move from the rural countryside to less viable and tempting cities, such as Wuhan, than to densely-populated economic hotspots like Shanghai and Guangzhou, because, “[while] *hukou* in large and megacities such as Beijing, Tianjin, Shanghai, and Guangzhou remains very attractive to rural migrants... *hukou* reforms in those cities are far less progressive than those in medium-sized and smaller cities and towns.”<sup>27</sup> It appears that the methodology for this approach—streamlining rural-to-urban migration, and therefore cheap labor, into lower-tier, less attractive cities—stems from an overarching desire by the Chinese government to ensure a state of harmonious equilibrium on its path to widespread urbanization.<sup>28</sup> The state’s meticulous policy planning and refined population control mechanisms suggest that it is seeking to balance economic productivity between its most and least developed regions and cities, as well as to avoid the socioeconomic and logistical implications

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<sup>22</sup> Spencer Sheehan, "China's Hukou Reforms and the Urbanization Challenge," *The Diplomat*, February 22, 2017, accessed April 15, 2019, <https://thediplomat.com/2017/02/chinas-hukou-reforms-and-the-urbanization-challenge/>.

<sup>23</sup> Sheehan.

<sup>24</sup> Xinhua, "Beijing Launches Point-based Hukou System," *XinhuaNet*, April 11, 2018, accessed April 15, 2019, [http://www.xinhuanet.com/english/2018-04/11/c\\_137103450.htm](http://www.xinhuanet.com/english/2018-04/11/c_137103450.htm).

<sup>25</sup> Xinhua, "Beijing Launches Point-based Hukou System."

<sup>26</sup> Sheehan.

<sup>27</sup> Chen and Fan, 20-30.

<sup>28</sup> Sheehan.

of a migrant tidal wave that would certainly be immensely disruptive, if not potentially catastrophic, for the megacities affected.

Unsurprisingly, even with these coercive policies and directives in place, the Chinese government has found that rural *hukou* holders have and continue to be less than enthusiastic to renounce their land rights and migrate to these underpopulated second-tier cities. Recent surveys suggest that because of the scarcity of opportunity in these cities, those in possession of an agricultural *hukou* view it as a form of safety and security, precisely because these smaller cities do not offer enough incentives to justify permanent relocation.<sup>29</sup> Instead of completely forfeiting their rural status, significant numbers of migrants now choose to oscillate between urban centers and the countryside, preserving “their entitlements in the countryside while continuing to access economic opportunities and basic public services in cities.”<sup>30</sup> While the historical narrative lends credibility to the idea that those with urban *hukou* status are more privileged than their rural counterparts, this has begun to change in recent years. The value associated with each *hukou* has shifted to encompass different, rivaling perks; it is now the case that many migrants are declining to relinquish their rural *hukou* status.

According to the Floating Population Dynamic Monitoring Surveys, “[which are] conducted annually by the Chinese National Health and Family Planning Commission since 2010 and...are the most comprehensive...despite rural migrants’ strong intention to stay long-term in cities, their intention to change *hukou*—especially if they are required to give up contract land—is much weaker.”<sup>31</sup> A number of other studies have found the same result. According to another study conducted by the Chinese Development Research Center of the State Council that “included more than 7,000 rural migrants in 20 cities, only 9 percent [of those surveyed] wanted to eventually return to their home village, but the vast majority were not willing to give up their contract land and housing land in exchange for urban *hukou*...84 percent wanted to keep their contract land and two-thirds wanted to keep their contract land *and* housing in the village.”<sup>32</sup> Beyond surveys, other recent demographic data also backs this trend. Overall, the rate of rural-to-urban migration has slowed, and in some cities, wages earned by migrants have been stagnant for the past three years, partly due to the effects of an economic transformation that has replaced a once-robust manufacturing industry with one highly dependent upon the provision of services.<sup>33</sup> Paradoxically, even though the urban *hukou* offers benefits unmatched by its rural counterpart in these second-tier cities, demographic trends and public opinion suggest that China’s rural migrants are now increasingly disinterested in securing it.<sup>34</sup> This could be for a number of reasons, such as the fact that if rural *hukou* holders leave their respective villages, they are susceptible to having their land repossessed by the government with little to no compensation. Citizens with rural *hukous* who elect to obtain urban *hukous* and then regret it are not allowed to reverse their decision, and it is highly difficult, if not impossible, to transfer from an urban *hukou* to a rural one.<sup>35</sup> Moreover, recent policy measures have increased benefits for rural *hukou* holders, shrinking the gap between the quality of urban and rural benefits, and thus the need to seek urban *hukou* in second-tier cities, through the urban *hukou* generally remains a more generally attractive option.<sup>36</sup> It is easy to see how rural *hukou* holders have

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<sup>29</sup> Chen and Fan, 20-30.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid., 25-35.

<sup>32</sup> Ibid.

<sup>33</sup> Wei, “Labor Market Segregation and the Wage Differential between Resident and Migrant Workers in China,” 1–22.

<sup>34</sup> Chen and Fan, 25-35.

<sup>35</sup> Ibid., 30-31.

<sup>36</sup> Ibid., 34.

increasingly come to value the affordances and economic safety net that their plots of land provide, as well as the supplemental income they can make by renting their property to rural migrant laborers from other provinces who may be seeking employment in nearby, secondary metropolises.

#### IV. The Challenge of Asymmetrical Property Investment

Perhaps somewhat contradictorily, while China has recently experienced a substantial increase in residential development and the availability of real estate, the high costs associated with these freshly developed housing units continue to put them out of reach for most new migrants and their families.<sup>37</sup> Faced with an underperforming stock market and limited reliable options for investment, and aided by lax constraints on migration and ownership in second-tier cities, the growing Chinese middle class has opted to invest in property, snapping up multiple apartments and homes despite mounting pressure from government cooldown restrictions.<sup>38</sup> In June 2018, new home prices rose by 1%, the fastest increase since October 2016. Residential property prices increased in 63 of 70 cities under official government-mandated supervision, the highest number since August 2016.<sup>39</sup> Moreover, for more established properties, prices rose in the largest number of cities in over five years.<sup>40</sup> This increase in the price of homes has created a dreadful conundrum; the likelihood of newer migrants being able to experience an affordable quality of life in these cities, and feel compelled to move to them to begin with, is decreasing in direct proportion to the expansion of the middle class and its collective investment potential. With quotidian life in third and second-tier cities becoming ever more costly, inconvenient, and unattractive to those with rural *hukou* status, and with the upwardly mobile purchasing property and making it unavailable for others, China is beginning to encounter the problem of having a multitude of structurally-intact urban agglomerations uninhabited by actual people.<sup>41</sup> If left unchecked, this dynamic is likely to present itself as a significant obstacle to China's goal of mobilizing its rural citizens to assimilate into the urban, social fabric of cities and pursuing its vision for a period of spectacular growth driven primarily by consumption.

#### V. The Effects of the Decades-Long One-Child Policy

The inflexibility of the housing market across China's cities and the reluctance of rural migrants to voluntarily surrender their land holding privileges are further compounded by the government's elimination of family-planning policies. Introduced and promulgated in 1979 under the leadership of Deng Xiaoping before being officially codified into law in the late 1980s, the People's Republic of China's one-child policy, literally known as the Policy of Birth Planning (计划生育政策), was a population control mechanism that sought to make one child the legal limit for all

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<sup>37</sup> Sheehan.

<sup>38</sup> VICE News, December 22, 2016, accessed on YouTube, accessed April 15, 2019, <https://www.youtube.com/watch?v=Bn2gUAqcSsI>; Chen, "Property Prices Continue To Surge In China Despite Government Cooling Measures — Here's Why."

<sup>39</sup> David Scutt, "China's Property Market Is Starting to Bubble and Policymakers Are Unlikely to Stop It," *Business Insider Australia*, July 18, 2018, accessed April 15, 2019, <https://www.businessinsider.com.au/china-property-market-prices-deleveraging-trade-war-bubble-2018-7>.

<sup>40</sup> Ibid.

<sup>41</sup> Tracey Shelton, Christina Zhou, and Ning Pan, "'An Incredible Amount of Waste': What China's Eerie Ghost Cities Say about Its Economy," *ABC News*, June 26, 2018, accessed April 15, 2019, <https://www.abc.net.au/news/2018-06-27/china-ghost-cities-show-growth-driven-by-debt/9912186>.

Chinese couples.<sup>42</sup> Its strategic objective was to curb the immense pressures being exerted on China's domestic society, economy, and environment by rapid population growth throughout the country, and to this end, it generally succeeded. By bringing the population under control and successfully implementing market reforms, the Chinese government was able to rapidly accelerate industrialization and urbanization, eventually rising to the status of the second-largest economy in the world.<sup>43</sup> Yet due to the long-standing cultural preference for men in Chinese society, the abortion and abandonment of female fetuses became the norm under the one-child policy. In some cases, Chinese women were subjected to forced sterilization, while women from adjacent countries became victims of human trafficking rings that served Chinese men who were unable to find wives.<sup>44</sup> By 2016, the imbalanced gender ratio that resulted from decades of the one-child policy was quite severe: roughly 120 men for every 100 women.<sup>45</sup> Then, on January 1st, 2016, the National People's Congress of China passed a law that replaced the one-child policy with a two-child mandate, making it legal and even socially-encouraged for couples to have two children.<sup>46</sup>

However, instead of remedying the problem, the elimination of family-planning policies has only created new and unexpected ones. The response of Chinese citizens has yet to deliver the enthusiasm that Chinese officials expected; due to exorbitantly high living costs, demanding workloads, and the expenses associated with child-rearing, as well as the lasting cultural impact of the one-child policy, the majority of families in China either feel they cannot afford or simply do not wish to have multiple children, especially the first and second generations of rural migrants based in cities.<sup>47</sup> By and large, a single child continues to be the ideal, and the numbers corroborate this. According to the Xinhua News Agency, "in 2017, there were 17.6 million births...12.43 births per 1,000 people. However, that was a drop from 2016, when the one-child policy was first relaxed – a year that saw 12.95 births per 1,000 people."<sup>48</sup> To make matters worse, it is conceivable to say that the birth rate is dropping, at perhaps, one of the most, if not the most, inopportune moment for Chinese society, as the decades spent under the one-child policy has created a dynamic where the native population is aging at a much faster rate than the rate at which new children are being born. According to estimates by the United Nations Population Division, at the current rate of population growth under the newly-passed two-child policy, roughly one-quarter of Chinese citizens will be 65 years old or older by the year 2040.<sup>49</sup>

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<sup>42</sup> Junsen Zhang, "The Evolution of China's One-Child Policy and Its Effects on Family Outcomes†," *Journal of Economic Perspectives* 31, no. 1 (Winter 2017): 141-160.

<sup>43</sup> Zhang.

<sup>44</sup> Peter Abrahamson, "End of an Era? China's One-Child Policy and Its Unintended Consequences," *Asian Social Work & Policy Review* 10, no. 3 (Oct. 2016): 326-338.

<sup>45</sup> Abrahamson.

<sup>46</sup> Zhang, "The Evolution of China's One-Child Policy and Its Effects on Family Outcomes†."

<sup>47</sup> Yi Zeng and Therese Hesketh, "Review: The Effects of China's Universal Two-Child Policy," *The Lancet* 388 (15 Oct. 2016): 1930-1938.

<sup>48</sup> Xinhua, "China Records 17.6 Mln Newborns in 2017," *XinhuaNet*, July 15, 2018, accessed April 15, 2019, [http://www.xinhuanet.com/english/2018-07/15/c\\_137325332.htm](http://www.xinhuanet.com/english/2018-07/15/c_137325332.htm); Scott Neuman and Rob Schmitz, "Despite The End Of China's One-Child Policy, Births Are Still Lagging," *NPR*, July 16, 2018, accessed April 15, 2019, <https://www.npr.org/2018/07/16/629361870/despite-the-end-of-chinas-one-child-policy-births-are-still-lagging>.

<sup>49</sup> United Nations Population Division, *World Population Aging: China 1950-2050*, accessed April 15, 2019, [https://www.un.org/en/development/desa/population/publications/pdf/ageing/WPA2015\\_Report.pdf](https://www.un.org/en/development/desa/population/publications/pdf/ageing/WPA2015_Report.pdf).

## VI. The Effects of Gender-Based Discrimination

Aside from the cultural and financial disadvantages linked to embracing the recently-implemented two-child policy, gender discrimination towards women in the workforce has also been a significant deterrent to increases in childbirth. Studies have found that in the aftermath of the two-child mandate, changes to maternity leave policies, marked by higher chances for multiple leaves, have made employers more hesitant to hire women. According to an oft-quoted survey published by 51job.com, a Chinese job recruitment website, a reported “75% of companies were more reluctant to hire women after the two-child policy took effect.”<sup>50</sup> On the employee side, the common stigma associated with paid maternity leave has made women just as hesitant to have to request it, likely out of the fear that they’ll be demoted or have their wages withheld by employers. In 2017, a probe published by Zhaopin, a popular Chinese employment website, found that “33% of women experienced a pay cut after giving birth...and 36% were demoted,” roughly one-third of the female population.<sup>51</sup> Gender discrimination is also prevalent in job advertisements and listings, which already often “specify a requirement or preference for men...or require women to have certain physical attributes—with respect to height, weight, voice, or facial appearance—that are completely irrelevant to the execution of job duties.”<sup>52</sup> As a 2018 gender discrimination study published by Human Rights Watch entitled *Only Men Need Apply* states, “these job ads reflect traditional and...discriminatory views: that women are less physically, intellectually, and psychologically capable than men; that women are...primary sources of child care and...unable to be fully committed to their jobs or will...leave full-time paid employment to have a family; and that accommodating maternity leave is...inconvenient or costly for the company or agency.”<sup>53</sup> Considering the high level of cultural resistance to the two-child mandate and the gender imbalance caused by decades of a one-child policy; asymmetrical property investment and the discrimination experienced by women in the workforce; and growing rural disinterest in urban life against the backdrop of a rapidly-aging population, it can be argued that China’s commitment to a consumption-driven economy is in great peril. With the recent trade ban enacted by the United States under President Donald Trump, it has thus become all the more imperative that the Chinese government promptly address these challenges for the sake of the country’s future.

## VII. Conclusion

In her book, *One Child: The Story of China's Most Radical Experiment*, Mei Fong suggests that whether the Chinese government is impeding or encouraging the birth of children, the underlying motivation is always the same: “it is always about control.”<sup>54</sup> An examination of the historical narrative, as it relates to migration policies, family-planning mandates, and the industrialization and urbanization that has occurred over the past six decades certainly suggests this is the case. Since it

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<sup>50</sup> The Economist. "China's Two-child Policy Is Having Unintended Consequences." The Economist. July 26, 2018. Accessed April 15, 2019. <https://www.economist.com/china/2018/07/26/chinas-two-child-policy-is-having-unintended-consequences>.

<sup>51</sup> "China's Two-child Policy Is Having Unintended Consequences," *The Economist*, July 26, 2018, accessed April 15, 2019, <https://www.economist.com/china/2018/07/26/chinas-two-child-policy-is-having-unintended-consequences>.

<sup>52</sup> Brian Stuafter, “‘Only Men Need Apply’: Gender Discrimination in Job Advertisements in China,” *Human Rights Watch*, 3 May 2018, accessed April 15, 2019, <https://www.hrw.org/report/2018/04/23/only-men-need-apply/gender-discrimination-job-advertisements-china>.

<sup>53</sup> Ibid.

<sup>54</sup> Mei Fong, *One Child: the Story of China's Most Radical Experiment* (Houghton Mifflin Harcourt, 2016), accessed April 15, 2019. <http://www.meifong.org/buyonechild/>.

was codified into law roughly 60 years ago, the *hukou* system has served as a legal conduit for the institutionalization of state-sponsored discrimination against rural migrants, as well as a tool for population control and localized segregation. Even as the system has turbocharged the country's socioeconomic growth and been refined over time to provide a more equitable distribution of resources for all citizens, it has nevertheless exacerbated the disparities between rural migrants and their urban counterparts, worsening levels of material and social inequality. And while the most severe disparities in welfare benefits and educational opportunities between urban and rural *hukou* holders have been widely equalized throughout the country, points-based initiatives in China's largest cities, along with the emergence of a booming middle class furiously investing in property against a tide of government limitations, have, and will continue to, fortify the barriers for rural entry into the urbanized elite. In light of the recent trade war initiated by the United States under the Trump administration, the actions of this middle class are also serving to derail the prospect of China rectifying its persistent dependence on property investment and credit for the sake of economic stimulus. It is very possible that the country may not even reach the population metrics necessary to ensure the smooth transition it is so desperately intent on achieving without experiencing some degree of difficulty. At a time of great uncertainty regarding the future of trade and industry in China, these policy shortcomings and inequalities, coupled with the deficit in productivity caused by a greying population, gender discrimination writ large, shifting values in the urban-rural *hukou* system, and an ingrained cultural preference for only children, present a measurable set of challenges to the government's desire for the implementation of a consumption-based economy.



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## The Mediterranean Puzzle: Hard-Power Gains, Hydrocarbon Wars and the Cyprus Conflict

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*Eleftheria Photiou*

The Republic of Cyprus is an island country in the Eastern Mediterranean. The geographic location of the island is pivotal for the current escalation of conflicts in the Mediterranean. Since the island is at the crossroads of Europe, Africa, and the Middle East, it has always attracted the attention of neighboring countries, as well as the international community. It provides the ideal location for the observance of current affairs in the region. Countries such as the United Kingdom, the United States, and Russia have already established their presence in the area, through different means and negotiations with the Republic of Cyprus.

This research will focus on how the perpetuation of the Cyprus conflict prevents long-term prosperity in the region and damages the common good and basic human needs. I will also provide suggestions for a new approach towards resolving the conflict, based on multi-track diplomacy. The multi-track system is a novel approach to conflict resolution, encompassing state, non-state, and civil society actors working together towards resolution and reconciliation.<sup>1</sup>

I will present my findings through three main areas of focus: 1) ethnic tension and reconciliation, 2) political advancement, and 3) economic advantages from the development of the gas pipeline, *East-Med*, through Europe. Since the conflict is complex, enduring, and has resulted from tension between ethnic groups, Edward Azar's theory of protracted social conflict will be my method of analysis to find solutions. My findings will be divided in four sections: 1) Communal Content, 2) Deprivation of Human Needs, 3) Governance and the State's Role, and 4) International Linkages.

### Cyprus Conflict Overview

Cyprus remained under British colonial rule from 1878 until its independence in 1960, when an agreement between the Greek and Turkish communities of the island ended the Independence War of 1955-1959 and proclaimed the Republic of Cyprus in 1960.<sup>23</sup> The London and Zürich agreements gave guarantee powers over the island to Greece and Turkey, as well as to Britain.<sup>4</sup> Scholars emphasize that Cyprus was a vital link in the chain of British bases running through the Mediterranean to the Middle East.<sup>5</sup> Following the declaration of independence in 1960, the UK retained two Sovereign Base Areas in Akrotiri and Dhekelia, which it still owns today.<sup>6</sup> Additionally, there is a binary relationship between Cyprus and Russia. The religious connection of the Orthodoxy was the historical focal point for the two nations to start building closer relations.<sup>7</sup> Recently, foreign Russian investors who reside in Cyprus have also enjoyed citizenship rights.

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<sup>1</sup> J.W. McDonald, "Multi-Track Diplomacy," in the *Beyond Intractability*, eds. Guy Burgess and Heidi Burgess (University of Colorado, Boulder: Conflict Information Consortium), last edited in 2003.

<http://www.beyondintractability.org/essay/multi-track-diplomacy> (Accessed 5 April 2019).

<sup>2</sup> B. O'Malley, I. Craig, "*The Cyprus Conspiracy: America, Espionage and the Turkish Invasion*," London: I.B.T. Tauris, 2007, 1.

<sup>3</sup> The Commonwealth, *Cyprus: History*, (Commonwealth Secretariat, 2019), <http://thecommonwealth.org/our-member-countries/cyprus/history> (Accessed 19 December 2018).

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> House of Representatives, Republic of Cyprus, *Declaration of Independence of Cyprus, 16<sup>th</sup> August 1960* (House of Representatives, 2019), <http://www.parliament.cy/en/photos/declaration-of-independence-of-cyprus-16th-august-1960> (Accessed 20 December 2018).

<sup>7</sup> Kadri Liik, "Winning the normative war with Russia: An EU-Russia Power Audit," European Council on Foreign Relations, 21 May 2018,



Under a money-for-passports programme instituted to help boost economic recovery, foreigners can become Cypriot citizens in a mere six months if they invest €2 million in property.<sup>8</sup> This initiative gives them and their families easy access to other EU countries. In 2017, the finance minister, Harris Georgiades, admitted that this business model had injected around €4 billion in foreign investment into the Cypriot economy—nearly 25% of the island's GDP.<sup>9</sup> Investment from Russian oligarchs supports the country economically, especially following the disastrous consequences of the bailout in 2013.<sup>10</sup> Cypriot banks were heavily exposed to the Greek debt crisis by having large bonds holdings of Greek debt, both public and private. The value of that debt destroyed the balance sheets of Cypriot banks, necessitating a €10 billion international bailout by the EU and the IMF for Cyprus's recovery.<sup>11</sup>

The Mediterranean has always witnessed political power games. Even though the US has remained the undisputed hegemon in the area, other countries like Russia, China, Turkey, and the United Kingdom have recently increased their influence in the area through economic aid, and naval and military presences.<sup>12</sup> Considering Turkey's democratic backsliding and the increasing conflicts with Washington (such as in Afrin), the Trump administration seeks to maintain some military security in the area to ensure American interests are served.<sup>13</sup> Russia's naval build-up in the Mediterranean region, close to Syria, is thus threatened by an American presence in the area.<sup>14</sup> Additionally, President Trump, in a recent tweet, announced victory against ISIS and the proclamation that US troops are leaving Syria. Hence, Americans would possibly maintain their position in the region through other means.<sup>15</sup>

The Turkish military invaded Cyprus on 20 July 1974, following the coup d'état on 15 July 1974 by the Greek Cypriot National Guard.<sup>16</sup> In 1983, Turkey illegally proclaimed the occupied territory the "Turkish Republic of Northern Cyprus," which is only recognized by Turkey.<sup>17</sup> At present, Turkey illegally occupies a third of the island, while the rest is the legitimate Republic of Cyprus. The occupation resulted in the enforced partition between north and south; Greek Cypriots

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[https://www.ecfr.eu/publications/summary/winning\\_the\\_normative\\_war\\_with\\_russia\\_an\\_eu\\_russia\\_power\\_audit](https://www.ecfr.eu/publications/summary/winning_the_normative_war_with_russia_an_eu_russia_power_audit) (Accessed 15 December 2018).

<sup>8</sup> A. A. Riza, "The Russian connection," *Cyprus Mail*, 5 November 2017. <https://cyprus-mail.com/2017/11/05/the-russian-connection/> (Accessed 10 December 2018)

<sup>9</sup> Helena Smith, "Welcome to Limassolgrad: The city getting rich on Russian money", *The Guardian*, 17 February 2018, <https://www.theguardian.com/world/2018/feb/17/welcome-to-limassolgrad-the-city-getting-rich-on-russian-money> (Accessed 31 March 2019).

<sup>10</sup> Andrew Higgins, "Cyprus Bank's Bailout Hands Ownership to Russian Plutocrats," *The New York Times*, 21 August 2013, <https://www.nytimes.com/2013/08/22/world/europe/russians-still-ride-high-in-cyprus-after-bailout.html> (Accessed 5 December).

<sup>11</sup> Dylan Matthews, "Everything you need to know about the Cyprus Bailout," *The Washington Post*, 18 March 2013, [https://www.washingtonpost.com/news/wonk/wp/2013/03/18/everything-you-need-to-know-about-the-cyprus-bailout-in-one-faq-2/?noredirect=on&utm\\_term=.29c2d6db259c](https://www.washingtonpost.com/news/wonk/wp/2013/03/18/everything-you-need-to-know-about-the-cyprus-bailout-in-one-faq-2/?noredirect=on&utm_term=.29c2d6db259c) (Accessed 30 March 2019).

<sup>12</sup> E. Ashford, "Unbalanced: Rethinking America's Commitment to the Middle East," *Strategic Studies Quarterly* (2018), 137.

<sup>13</sup> Aaron Stein, "Reconciling U.S.-Turkish Interests in Northern Syria," *Council on Foreign Relations* (February 2017), 2.

<sup>14</sup> Jean Christou, "Russia will respond to any 'US military build-up in Cyprus'," *Cyprus Mail*, 5 December 2018, <https://cyprus-mail.com/2018/12/05/russia-vows-response-to-any-us-military-build-up-in-cyprus/> (Accessed 5 December).

<sup>15</sup> Donald J. Trump (@realDonaldTrump), "After historic victories against ISIS, it's time to bring our great young people home!" Twitter, 19 December 2018. <https://twitter.com/realdonaldtrump/status/1075528854402256896?lang=en> (Accessed 6 May 2019).

<sup>16</sup> D. Raič, "Statehood and the Law of Self-Determination," The Hague: Kluwer Law International, 2002, 123.

<sup>17</sup> *Ibid.*, 124.

were forced to leave the northern side and Turkish Cypriots the southern side,<sup>18</sup> leaving Nicosia the last divided capital of the world. Many analysts, mediators, and heads of states have tried and failed over the past 44 years to find a solution to the problem, which seems impossible because of the continuous clashes between the two communities. The conflict is defined as intractable, due to its formation and endurance since Cyprus's early years of independence in 1960.

The intractable nature of the conflict, which has been deadlocked since 1974, has stalled Cyprus's political and economic advancement. However, Cyprus's capital, Nicosia, stands at the center of a network of political, economic, and social negotiations, which can facilitate multilateral relations and development to further peace in the Mediterranean region.

## Literature Review

The existing literature on the Cyprus conflict presents the problem as post-colonial, meaning the parity amongst the two communities was intensified after the end of the British rule. Britain left Cyprus in the midst of an identity crisis and it enforced the Zurich-London Agreements with guarantee powers to Greece, Turkey and Britain, outweighing the decisions taken by Cypriot representatives.<sup>19</sup> The historical context of the conflict as a result of colonization can be traced in the work of Oliver Richmond and his 2002 case study, "Decolonisation and Post-Independence Causes of Conflict: The Case of Cyprus."<sup>20</sup> Post-colonial arguments should be used in order to lay down the roots of the conflict. However, they have to be accompanied with other literature that explains the relationship between the two communities and shows how religious and ethnic tensions have also contributed to the conflict.

A source that can complement this argument is Özkan Behlül's article, "Making Cyprus a national cause in Turkey's foreign policy, 1948-1965."<sup>21</sup> Behlül engages in both decolonization and ethnic conflict arguments, concluding that civilizational geopolitics characterized Turkey and Greece's rivalry in Cyprus after centuries of conflict between Turkishness and Hellenism. This analysis attributes the root of the conflict to both decolonization and Greece-Turkey relations, which further explains the ongoing conflicts in the Aegean.

An interesting approach is Jonathan Gorvett's study, "Cyprus in the Middle: Nicosia Holds the Key to Syria, the Migrant Crisis and Gas in the Eastern Mediterranean."<sup>22</sup> This article emphasizes the importance of Cyprus' position in the midst of the current conflicts in the region. Gorvett indicates that the geographic location of the island and its recent discovery of natural resources should be used for the benefit of international actors and the Cyprus Government.

Finally, Kyris' essay "Explaining the Failure of Conflict Resolution in Cyprus" expands on previous efforts in conflict resolution that proved fatal for any solution in the island.<sup>23</sup> Ramsbotham,

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<sup>18</sup> Global IDP Project, "Profile of Internal Displacement: Cyprus," *Norwegian Refugee Council* (April 2005), 27, <https://www.refworld.org/pdfid/3bd98d542.pdf> (Accessed 3 April 2019).

<sup>19</sup> Richmond, "Decolonisation and Post-Independence Causes of Conflict," 165.

<sup>20</sup> Oliver Richmond, "Decolonisation and Post-Independence Causes of Conflict: The Case of Cyprus," *Civil Wars* 5, no. 3 (2002): 163-190.

<sup>21</sup> Behlül Ozkan, "Making Cyprus a national cause in Turkey's Foreign Policy, 1948-1965," *Journal of Southeast European & Black Sea Studies* 15, no. 4 (December 2015): 541-562.

<sup>22</sup> Jonathan Gorvett, "Cyprus in the Middle: Nicosia Holds the Key to Syria, the Migrant Crisis and Gas in the Eastern Mediterranean," *Foreign Affairs*, 12 January 2016.

<sup>23</sup> George Kyris, "Sovereignty and Engagement without Recognition: Explaining the Failure of Conflict Resolution in Cyprus," *Ethnopolitics* 17, no. 4 (September 2018): 426-442.

Woodhouse, and Miall debate arguments on a new perspective of conflict resolution and reconciliation that could be fruitful for the Cyprus context. The analysis in this paper will address the roots of the above problems in Cyprus and prove how the deadlock in its domestic politics is pivotal in finding solutions to problems such as the current refugee crisis in the Mediterranean, Turkey's aggressiveness in the sea, and the European Union's authority.

### **Azar's Protracted Social Conflict Theory**

Edward Azar's theory of protracted social conflict represents "the prolonged and often violent struggle by communal groups for such basic needs of security, recognition and acceptance, fair access to political institutions and economic participation."<sup>24</sup> Azar moves away from the traditional perception of state-centric politics and national interests and provides a radical approach on the foundation of intractable conflicts. The Cyprus conflict is an example of this type of conflict and can be analysed through the four preconditions recognized by Azar for PSC, which include: 1) Communal content, 2) Human needs, 3) Governance, and 4) International linkages.

### **Communal Content**

The first pre-condition to Azar's theory is communal content. According to Azar, "the most useful unit of analysis in protracted social conflicts is the identity group."<sup>25</sup> In the case of Cyprus, communal content reflects the legacy of the post-colonization period. Cyprus gained its independence in 1960 from Britain, following the end of the Independence War in 1959 and the agreement reached between the Greek and Turkish communities of the island.<sup>26</sup> In 1963, President Makarios raised Turkish fears after proposing constitutional change that would reduce autonomy and representation of Turkish Cypriots in the parliament.<sup>27</sup> This led to an outburst of communal violence and marked the beginning of a slow process of segregation and separation for the two communities, which is now the foundation of the intractable conflict.

It is important to understand the relevance of the historical context for the Cyprus conflict. In response to the inter-communal violence, a UN Peacekeeping Force entered the country in 1964 and established the "green line" between north and south. Violence continued to increase throughout the decade, especially after the establishment of the military junta in Greece in 1967, which provoked many ethnic tensions among the two communities.<sup>28</sup> The military coup of 1974 by the Greek Cypriot National Guard signalled a green light for Turkish intervention in order to protect Turkish Cypriots. It should be noted that post-colonization played a key factor to this development of events. Britain left Cyprus in the midst of an identity crisis and it enforced the Zurich-London Agreements with guarantee powers, outweighing the decisions taken by Cypriot representatives.<sup>29</sup> Furthermore, the religious and ethnic clashes between Greeks and Turks throughout the centuries, beginning from the Ottoman Empire, is a historical reason for the continued resentment between the two groups. Greek literature in school books presents Cyprus as

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<sup>24</sup> Oliver Ramsbotham, Tom Woodhouse, Hugh Miall, *Contemporary Conflict Resolution*, (New York: Polity Press, 2016), 116.

<sup>25</sup> Ibid.

<sup>26</sup> The Commonwealth, *Cyprus: History*.

<sup>27</sup> Ibid.

<sup>28</sup> Paschalis Kitromilides and Theodore . Coulombis, "Ethnic conflict in a strategic area: The case of Cyprus," *Ejournals* (2010): 2.

<sup>29</sup> Richmond, "*Decolonisation and Post-Independence Causes of Conflict*,"165.

naturally belonging to Europe, based on Greek inheritance.<sup>30</sup> Hence, the educational system is built upon the foundations of the ethnic conflict, resulting in the evolution of language, literature, and social studies that reflect the conflict. The feeling of resentment still exists in Cypriot society today, proving the intractability of a conflict that is founded on mistrust and hatred.

## Deprivation of Human Needs

The lack of trust and the fear among society groups is still a factor preventing the island from reaching a solution. Needs of security, development, political access, and identity—in terms of cultural and religious expression—are not met equally on the two sides.<sup>31</sup> After the occupation of one third of the island by Turkey and the proclamation of the Turkish Republic of Northern Cyprus in 1983, more issues of the deprivation of human needs arose. The occupied part is not recognized as a country under international law,<sup>32</sup> meaning that Turkish Cypriots are not fairly represented. They do not have a legitimate government or stable economy, and they rely heavily on Turkey to support them. Following 1983, Turkey has been Turkish Cypriots' only connection to the world. All mail to the north of the island is shipped via the route Mersin 10, referring to the port opposite Cyprus on the Turkish mainland.<sup>33</sup> Turkey funds government activities and the Turkish lira has served as the area's currency. Universities have even been made part of the Turkish system.

The direct reliance on Turkey has sparked a wave of resentment among Turkish Cypriots, who demonstrated against the country's military offensives against Kurds in Syria.<sup>34</sup> Furthermore, the traditionally secular Turkish Cypriots recently protested against the AKP's Islamist agenda, which involves a mosque-building program in the north of the island.<sup>35</sup> This tension creates further problems for reconciliation, since religion has a considerable impact on the Republic of Cyprus and its Greek Orthodox majority.

The deprivation of human needs is also evident in institutions and corporations on the occupied side. Turkish Cypriots with EU passports cross the green line frequently after the opening of the border in 2003; however, there is little institutional collaboration, as the Cypriot government considers most Turkish Cypriot institutions to be illegitimate.<sup>36</sup> Only institutions that had already obtained legal identification as Turkish Cypriot during the adoption of the constitution in 1960 are considered legal. Thus, Turkish Cypriot schools are accepted as legitimate, but not higher education institutions which did not exist at the time.<sup>37</sup>

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<sup>30</sup> Rebecca Bryant and Yiannis Papadakis (eds.), *Cyprus and the Politics of Memory: History, Community and Conflict* (New York: I.B. Tauris, 2012), 17.

<sup>31</sup> Ramsbotham *et al.*, 117.

<sup>32</sup> "Political Situation in the Occupied Areas," Ministry of Foreign Affairs, Republic of Cyprus, last modified 01 January 2019, <http://www.mfa.gov.cy/mfa/mfa2016.nsf/All/663178FC5592CDE3C2257F9C0034A158?OpenDocument>.

<sup>33</sup> Thomas de Waal, "Cyprus: In Europe, In Limbo," in *Uncertain Ground: Engaging With Europe's De Facto States and Breakaway Territories* (Carnegie Europe, 03 December 2018). <https://carnegieeurope.eu/2018/12/03/cyprus-in-europe-in-limbo-pub-77844>.

<sup>34</sup> Helena Smith, "Thousands of Turkish Cypriots Demonstrate Against Ankara," *The Guardian*, 26 January 2018, <https://www.theguardian.com/world/2018/jan/26/thousands-of-turkish-cypriots-demonstrate-against-ankara> (Accessed 2 April 2019).

<sup>35</sup> Michael Jansen, "Erdogan chilled by frosty welcome from Turkish Cypriots," *The Irish Times*, 11 July 2018, <https://www.irishtimes.com/news/world/europe/erdogan-chilled-by-frosty-welcome-from-turkish-cypriots-1.3561309> (Accessed 02 April 2019).

<sup>36</sup> De Waal, "Cyprus: In Europe, In Limbo."

<sup>37</sup> *Ibid.*

Although Greek Cypriots live prosperous lives in the south part of the island, the property issue from the invasion of 1974 still looms. Around three-quarters of private land under the possession of Turkish Cypriots in the north still has legitimate Greek Cypriot owners, and around one-eighth of private land in the south is still formally owned by Turkish Cypriots.<sup>38</sup> The property issue is one of the most important barriers for rapprochement. Governments throughout the years have prioritized this issue during negotiations, but all of them collapsed due to different perceptions of the land issue.

Though the two communities live in different cultural worlds—with only older generations speaking both Greek and Turkish—the two communities interact freely. In 2016, the European Mediterranean Art Association organized a bi-communal art exhibition under the heading, “Confrontation Through Art: contemporary art as an instrument for reconciliation in Cyprus.”<sup>39</sup> There is an active constituency of businessmen, academics, and artists on both sides who support mutual compromise and call for reconciliation.

### **Governance and the State’s Role**

Since 1974, different political parties in power from the Republic of Cyprus and the Turkish-Cypriot community have tried to tackle the Cyprus conflict. The ethnic tension prevents government progress towards a solution. Negotiations are made more difficult by the fact that the Turkish government makes decisions for the north—which has a population of only 70,000 Turkish Cypriots and 600,000 Turkish settlers—without granting proper representation to Turkish Cypriots.<sup>40</sup> Greek Cypriots are often blamed for the failure of negotiations by Turkish Cypriots, especially after Greek Cypriots rejected the Annan Plan for peace in 2004.<sup>41</sup> The plan, which proposed that the Turkish military remain on the island to “protect” Turkish Cypriots, was unacceptable to the Republic of Cyprus.<sup>42</sup> For a solution to be found, both the Greek and Turkish militaries would have to leave the island, allowing Cyprus to reunite under one name, one military, and one population.

The state’s role and the growing role of civil society are crucial preconditions in Azar’s model. The mobilization of civil society interests and the recognition of excluded minorities will enable Cyprus to enter into a new era of politics and negotiations, to find new means of solving the intractable conflict.<sup>43</sup> The inclusion of growing civil society groups in the negotiation process will allow Cyprus to pursue more objective foreign and domestic policies. Such groups could include LGBT communities, and women and youth organizations; therefore, society groups that have not

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<sup>38</sup> International Crisis Group, “Divided Cyprus: Coming to Terms on an Imperfect Reality,” 14 March 2014, 29, <https://www.crisisgroup.org/europe-central-asia/western-europemediterranean/cyprus/divided-cyprus-coming-terms-imperfect-reality> (Accessed 30 March 2019).

<sup>39</sup> Melike Kalkan, “Art exhibition of bi-communal children and youth activities,” *European Union Aid Programme for Turkish Cypriot Community*, 11 April 2018, <http://www.tceugrantsupport.eu/en/art-exhibition-of-bi-communal-children-and-youth-activities-emaal/> (Accessed 5 April 2019).

<sup>40</sup> Helena Smith, “‘We’re not Muslim enough’ fear Turkish Cypriots as poll looms,” *The Guardian*, 6 January 2018, <https://www.theguardian.com/world/2018/jan/06/were-not-muslim-enough-fear-turkish-cypriots-as-poll-looms> (Accessed 19 December).

<sup>41</sup> HRI United Nations, “Annan Plan: Text,” 5 April 2004, [http://www.hri.org/docs/annan/Annan\\_Plan\\_Text.html](http://www.hri.org/docs/annan/Annan_Plan_Text.html) (Accessed 18 December).

<sup>42</sup> Ibid.

<sup>43</sup> Ramsbotham *et al.*, 118.



traditionally been included in negotiations and foreign policy decisions would be represented, allowing for a more cohesive and inclusive bottom-up policy.

## International Linkages

The accession of Cyprus to the European Union in 2004 was a step forward in achieving better recognition for the political and economic relations of the island. The fact that only two-thirds of the island population and territory are represented in the European Union and the United Nations, however, makes it difficult for Cyprus to prosper both economically and politically. In December 2017, Italy, Greece, Cyprus, and Israel agreed to support the construction of a gas pipeline, known as East Med. This project, which cost up to 6 billion euros, involves a 2,000 kilometre pipeline stretching to the Mediterranean.<sup>44</sup> The East Med project is constantly being terrorized by Turkey, preventing economic expansion for the island and multilateral growth in the region.

Since 2015, Turkish Navy vessels have been harassing the Italian giant ENI's 'Saipem 1200' drillship in Cyprus' Exclusive Economic Zone (EEZ).<sup>45</sup> Turkey claims that Cyprus's EEZ falls into the jurisdiction of Turkish Cypriots and Turkey is responsible for their rights and protection, therefore they have the right to intervene. In early May 2019, Turkey announced intentions to begin offshore drilling operations on the southwestern part of Cyprus's EEZ, 45 miles from the town of Paphos.<sup>46</sup> Both the European Union and the United States have since announced their support to the Republic of Cyprus and urged Turkey to halt operations immediately. These statements were made shortly before President Erdogan's speech at NATO's dialogue meeting in Ankara on the 6th of May, where he emphasized Turkey's rights in Cyprus and the support they expected from NATO on these operations.<sup>47</sup> Relations between the European Union and the candidate country, Turkey, are worsening despite previous efforts by more secular parties in Turkey to achieve Turkish accession into the EU. The United States is also losing faith in their NATO ally, following Turkey's multiple fronts in the Mediterranean region, such as in Afrin and Cyprus EEZ.

The course of relations between countries has been influenced by energy deals, such as US alliances with Gulf States and Eurasian countries' dependence on Russia. For example, the new gas discoveries in 2015 transformed the relations between Israel, Greece, and Cyprus. Since the 1948 war, the Greek and Cypriot governments have followed a pro-Arab foreign policy in the MENA region. They have sought to secure relations with the Greek and Orthodox communities in Egypt, Jordan, and Lebanon, as well as Arab support for the Cyprus problem in the United Nations.<sup>48</sup> Additionally, the normalization of relations between Israel and Turkey during the 1990s provoked an

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<sup>44</sup> Michele Kambas, "Greece, Italy, Israel and Cyprus back natgas pipeline to Europe," *Reuters*, 5 December 2017, <https://www.reuters.com/article/energy-mediterranean-natgas/greece-italy-israel-and-cyprus-back-natgas-pipeline-to-europe-idUSL8N1O537F> (Accessed 1 March 2018).

<sup>45</sup> Stephen Jewkes, "Turkish blockade of ship off Cyprus is out of Eni's control: CEO," *Reuters*, 16 February 2018 <https://www.reuters.com/article/us-cyprus-natgas-turkey-eni/turkish-blockade-of-ship-off-cyprus-is-out-of-enis-control-ceo-idUSKCN1G01K0> (Accessed 27 February 2018).

<sup>46</sup> Daren Butler, "U.S. and EU concerned by Turkey's plans to drill off Cyprus," *Reuters*, 6 May 2019 <https://www.reuters.com/article/us-turkey-cyprus-drilling/u-s-says-deeply-concerned-by-turkeys-intent-to-drill-off-cyprus-idUSKCN1SC0D5> (Accessed 8 May 2019).

<sup>47</sup> *Ibid.*

<sup>48</sup> Emmanuel Karagiannis, "Shifting Eastern Mediterranean Alliances," *Middle East Quarterly* 23, no. 2 (Spring 2016): <https://www.meforum.org/5877/shifting-eastern-mediterranean-alliances> (Accessed 31 March 2019).

anti-Israel sentiment in Greece and Cyprus.<sup>49</sup> However, following the discovery of energy plants in the Mediterranean between Cyprus and Israel, along with the rise of Recep Tayyip Erdoğan and the Islamist AKP Party in Turkey, a shift towards a more cooperative foreign policy has been evident on Greek, Cypriot, and Israeli sides. Erdoğan's evident anti-Israel policies enabled the rapprochement of the Israeli and Greek/Cypriot governments since the early 2000s.

The recent discovery of hydrocarbons in the Eastern Mediterranean's Levant Basin has created promising new regional security dynamics. The increasing collaboration with the French and Italian drilling companies, Total and Eni, will secure future European alliances. The Turkish provocation of the drilling procedure in the Cyprus EEZ does not only challenge Cyprus but also the international community, which evidently supports the Republic of Cyprus.<sup>50</sup> Having a strong ally with a permanent seat at the United Nations Security Council, such as France, stands to benefit Cyprus, especially considering the declining US-Turkey relations. Still, the project remains at a deadlock following Turkey's increasing aggression, based on the claim that Turkish Cypriots need to be included in the project and represented by Turkey, which directly violates UNCLOS III signed in 1982.<sup>51</sup> The Cyprus conflict is an obstacle for economic growth, both for the country itself and also for the European community. According to a survey in 2014, after a normalization of the political and economic relations in a united Cyprus, trading activity is expected to boom, reaching a projected €5 billion in constant income in 20 years.<sup>52</sup>

## Geopolitical Importance

Considering Cyprus's geographical location, one needs to understand the geopolitical importance of the region. Since 2015, both Greece and Cyprus have acted as receiving centers for Syrian refugees fleeing their country following the Syrian Civil War and the rise of ISIS.<sup>53</sup> The escalation of tension in the Syrian region of Afrin resulted in an increase in the number of Syrian Kurds leaving the country.<sup>54</sup> Cyprus has reached 6,000 applications for a local population of 1 million, exceeding any other EU member state in asylum claims.<sup>55</sup> Currently, Cyprus cannot guarantee a sustainable future for refugees due to the political standstill in negotiations and the economic aftermath of the 2013 crisis.

Additionally, the introduction of new energy deals can only be envisioned with the halt of Turkey's aggressiveness. Once a solution is reached, the Mediterranean will convert into an energy hub. The recently established "Club Med," a Cairo-based Gas Forum encompassing Cyprus, Italy,

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<sup>49</sup> Ibid.

<sup>50</sup> Kostis Geropoulos, "All Eyes on Turkey as Total-ENI vessel readied to drill offshore Cyprus," *New Europe*, 12 July 2017. <https://www.neweurope.eu/article/eyes-turkey-total-eni-vessel-readied-drill-offshore-cyprus/> (Accessed 1 March 2018).

<sup>51</sup> Andrew Jacovides, "Turkey and the Law of the Sea: some facts," *Cyprus Mail*, 11 February 2018, <http://cyprus-mail.com/2018/02/11/turkey-law-sea-facts/> (Accessed 11 February 2018).

<sup>52</sup> Fiona Mullen, Alexander Apostolides, and Mustafa Besim, "The Cyprus Peace Dividend Revisited: A productivity and Sectoral Approach," *Peace Research Institute Oslo Report*, 1 (Nicosia: PRIO Cyprus Center, January 2014).

<sup>53</sup> UNHCR, "Global Trends: Forced Displacement in 2015," 20 June 2016, 7, <https://www.unhcr.org/576408cd7.pdf> (Accessed 30 March 2019).

<sup>54</sup> Youssef Sheiko, "For Syrian Kurds, Western Sympathy Isn't Enough," *The Washington Institute*, 8 January 2018, <https://www.washingtoninstitute.org/fikraforum/view/for-syrian-kurds-western-sympathy-isnt-enough> (Accessed 5 April 2019).

<sup>55</sup> Helena Smith, "'Cyprus is saturated' - burgeoning migrant crisis grips island," *The Guardian*, 11 December 2018, <https://www.theguardian.com/world/2018/dec/11/cyprus-the-new-entry-point-to-europe-for-refugees-and-migrants> (Accessed 31 March 2019).

Greece, Egypt, Israel, Jordan, and the Palestinian Authority, represents an improving relationship regarding energy and security between the EU and the MENA region.<sup>56</sup> Club Med works to develop the EastMed project and provide economic prosperity, stability, and diplomatic security for the region. A shift in political and economic dynamics following the resolution of the Cyprus conflict will allow the Eastern Mediterranean to become one of the strongest regions in the world.

Apart from the Cyprus conflict, which makes the country an unreliable partner for future collaboration, other regional obstacles also stand in the way of political and economic progress. In February 2019, Egypt expressed concerns about the cost of the pipeline and suggested alternative routes.<sup>57</sup> Greece's insufficient technological means and economic instability are security risks for the future of the project.<sup>58</sup> Lebanon's conflict with Syria, along with the intricate relationships between Egypt and Israel, as well as the Israeli-Palestinian conflict, also demonstrate the difficulties of a long-term partnership on a regional level. Security experts have expressed the view that navigation of the EastMed project will work towards a win-win situation, rather than a zero-sum game—<sup>59</sup> meaning that each party will benefit mutually, providing an incentive to cooperate with each other.

The Cyprus problem is often described as a non-violent, normalized, and comfortable conflict compared to other conflicts in the region, such as the Israeli-Palestinian dispute.<sup>60</sup> Also, since it is a non-violent conflict, it does not attract as much attention as other problems in the international sphere, allowing for the global community to disregard its importance. The two communities have been living apart for almost 45 years; thus, there is limited social interaction during common daily life between Greek Cypriots and Turkish Cypriots.

Following the discovery of the energy plants, more attention has been drawn to the island and its history. The regional actors can promote the urgency of reaching a resolution, which will potentially contribute to the increase of security, stability, and reconciliation on the island. It will also allow a better understanding of Turkish and Greek responsibilities regarding Cyprus, and a normalization of relations with the EU and Turkey, as well. The Turkish local elections of March 2019 demonstrated that populist regimes are in decline. The AKP Party lost the majority in Ankara and Constantinople, paving the way back to secularism and democratic rule.<sup>61</sup> In the meantime, social, psychological, and structural changes within Cyprus could be implemented for a new approach on behalf of the Republic of Cyprus, ultimately serving to mitigate the conflict and improve the situation in the Eastern Mediterranean.

## Reconciliation

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<sup>56</sup> Simon Henderson, "Cyprus Gas Discovery Could Be an East Mediterranean Game-Changer," *The Washington Institute*, 1 March 2019, <https://www.washingtoninstitute.org/policy-analysis/view/cyprus-gas-discovery-could-be-an-east-mediterranean-game-changer> (Accessed 30 March 2019).

<sup>57</sup> Chris Stephen, "Egypt's gas paradox," *Petroleum Economist*, 28 February 2019, <https://www.petroleum-economist.com/articles/midstream-downstream/Ing/2019/egypts-gas-paradox> (Accessed 2 April 2019).

<sup>58</sup> James Roberts and George Bitros, "The Lack of Economic Freedom in Greece Is a Tragedy," *The Heritage Foundation*, 27 November 2017, <https://www.heritage.org/international-economies/report/the-lack-economic-freedom-greece-tragedy> (Accessed 29 March 2019).

<sup>59</sup> Global Risk Insights, "Who are the Biggest Winners in the East-Med Gas Game?" Oilprice.com, 7 January 2019, <https://oilprice.com/Energy/Crude-Oil/Who-Are-The-Biggest-Winners-In-The-East-Med-Gas-Game.html> (Accessed 2 April 2019).

<sup>60</sup> Constantinos Adamides and Costas M. Constantinou, "Comfortable Conflict and (Il)liberal Peace in Cyprus," in *Hybrid Forms of Peace: From Everyday Agency to Post-Liberalism*, edited by Oliver Richmond and Audra Mitchell (Basingstoke: Palgrave Macmillan, 2012), 242-259.

<sup>61</sup> Tuvan Gumrukcu and Ece Toksabay, "Erdogan appears to concede Istanbul defeat after Ankara loss," *Reuters*, 30 March 2019, <https://af.reuters.com/article/worldNews/idAFKCN1RB0QM> (Accessed 30 March 2019).



### *Structural*

As of 2018, the unemployment level of Cyprus is 7.5%.<sup>62</sup> The economic crisis of 2013 forced many young people to leave the country and look for better opportunities abroad.<sup>63</sup> The stagnant conflict disincentivizes the youth from returning to Cyprus, given the limited career opportunities and the low salaries available.<sup>64</sup> Still, certain communities within the island are pursuing change. A team of young Greek-Cypriot and Turkish-Cypriot archaeologists worked together on a bi-communal project on the border of the ghost town of Varosi to discover their common cultural heritage.<sup>65</sup> The young archaeologists envision the city becoming a hub of civilization and commerce, by also having the Levantine coastline across.<sup>66</sup> The involvement of the youth in negotiations can act as a new approach to the Cyprus problem, introducing a new exercise in multi-track diplomacy.

### *Social and Psychological*

The persistent fear of inter-communal violence and the lack of trust between parties are the most difficult obstacles for a solution to the Cyprus problem.<sup>67</sup> Re-building relationships within society could mark the beginning of the slow process of reconciliation, allowing the emotional aspects of rapprochement to endure. This could be a process of collective healing based on the rehabilitation of both victims and offenders. The removal of these 'identities' and a reconstruction of a plural society could facilitate the process. According to Ramsbotham, dealing with and overcoming the trauma of the past is the main obstacle communities have to face in order to progress and find solutions.<sup>68</sup> In the case of Cyprus, this has to be endorsed through education, social media, and active non-partisan advocates.

An example is the Bi-Communal Imagine Project that took place under the auspices of the Bi-Communal Technical Committee on Education and was implemented by the Association for Historical Dialogue and Research (AHDR) and the Home for Cooperation (H4C). This was a pilot project that allowed students from Greek and Turkish Cypriot Schools to meet at the buffer zone and participate in exercises.<sup>69</sup> With the support of the United Nations, this project promoted the commonalities between the children of both ethnic communities. Similar projects should be incorporated in the educational system to allow for a better understanding of the issue and demonstrate how both communities can work and live together.

### *Multi-track diplomacy*

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<sup>62</sup> Trading Economics, "Cyprus Unemployment Rate," 2018, <https://tradingeconomics.com/cyprus/unemployment-rate> (Accessed 21 December 2018).

<sup>63</sup> Marie Kambas, "Youth leaving in search of jobs," *Cyprus Mail*, 12 October 2014, <https://cyprus-mail.com/2014/10/12/youth-leaving-in-search-of-jobs/> (Accessed 2 April 2019).

<sup>64</sup> Valerie Gauriat, "Cyprus: the trapped treasures of a divided island," *Euronews*, 23 February 2017, <https://www.euronews.com/2017/02/23/cyprus-s-trapped-treasures-and-the-promise-of-reunification> (Accessed 3 April 2019).

<sup>65</sup> Ibid.

<sup>66</sup> Ibid.

<sup>67</sup> UNDP, *Solving the Cyprus Problem: Hopes and Fears*, (Interpeace and Cyprus 2015 Initiative, 2011), 112. <https://www.undp.org/content/dam/cyprus/docs/ACT%20Publications/Civil%20Society/cyprus2015%20solving%20the%20cyprus%20problem%20en.pdf> (Accessed 1 April 2019).

<sup>68</sup> Ramsbotham *et al.*, 289.

<sup>69</sup> United Nations Peacekeeping Force in Cyprus,, "Bi-Communal Imagine Project Kicks off," 2 June 2017, <https://unficyp.unmissions.org/bi-communal-imagine-project-kicks> (Accessed 03 April 2019).

Multi-track diplomacy is a system that incorporates all aspects of peacemaking, from the ground-level work of private citizens to the top-level meetings of heads of states.<sup>70</sup> The multi-track system was recognized as a mediation system for conflict resolution in the 1990s, after an increase in intrastate conflicts and the inefficiency of the traditional Track One diplomacy in resolving those conflicts.<sup>71</sup> Track One, the official high level negotiation-system between governments, has not been effective in finding solutions to numerous conflicts worldwide, including the Cyprus problem. The inclusion of civil societies, non-governmental organizations, and private sector groups could prove pivotal in building a sense of community on both sides of the island. Since the multi-track system is based on partnerships, commercial negotiations on both sides could be developed, along with projects involving advocates for a solution. The use of new technologies and practical work in the field will allow the population to understand the conflict and use innovative methods to participate in negotiations. A previous effort has been made by the Cyprus Consortium, where they trained thousands of Cypriots based on the multi-track system through summer camp workshops.<sup>72</sup> Considering the stalemate in the process of negotiations, Cyprus could benefit from a new approach to the conflict by incorporating non-state actors towards a solution.

## Conclusion

The maintenance of peace in the Mediterranean is a complicated issue with various root causes, such as the post-colonial legacy and historical ethnic conflicts. Currently, geopolitical interests following the discovery of hydrocarbons in the region and collaboration between global and regional powers could prove pivotal for stability and energy security. Still, the Cyprus conflict delays this regional progress and any other attempt towards peace. Considering the analysis above, state and non-state actors should work together for reconciliation. The proposed methods of conflict resolution could lead to a new era of development and prosperity, both for the societies and the governments of Cyprus and the Eastern Mediterranean. The multi-track diplomacy system will allow for a novel approach to mediation and could prove pivotal in providing a final solution to an island that has been in the midst of tension and instability for decades.

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<sup>70</sup> John W. McDonald, "Multi-Track Diplomacy," edited by Guy Burgess and Heidi Burgess (The Beyond Intractability Project, The Conflict Information Consortium, University of Colorado; Conflict Information Consortium, University of Colorado, Boulder, September 2003), <https://www.beyondintractability.org/essay/multi-track-diplomacy> (Accessed 5 April 2019).

<sup>71</sup> Ibid.

<sup>72</sup> John Davies and Edward Kaufman (eds.), *Second Track/Citizens' Diplomacy: Concepts and Techniques for Conflict Transformation* (Lanham: Rowman & Littlefield Publishers, 2003), 59.