

Spring 5-2016

Welcoming the Stranger: African Refugees and Israel's Asylum Regime

David Kimelman

Follow this and additional works at: https://surface.syr.edu/honors_capstone



Part of the Political Science Commons

Recommended Citation

Kimelman, David, "Welcoming the Stranger: African Refugees and Israel's Asylum Regime" (2016).
Syracuse University Honors Program Capstone Projects. 947.
https://surface.syr.edu/honors_capstone/947

This Honors Capstone Project is brought to you for free and open access by the Syracuse University Honors Program Capstone Projects at SURFACE. It has been accepted for inclusion in Syracuse University Honors Program Capstone Projects by an authorized administrator of SURFACE. For more information, please contact surface@syr.edu.

© David J. Kimelman – May 10, 2016

ABSTRACT

This paper will explore the Israeli asylum regime and its development since the state's inception and will discuss the rationales and motives behind national policy and public perception of asylum seekers. Over the last decade, Israel's asylum regime has been significantly upgraded to meet the growing needs of the state to manage an unprecedented flow of asylum seekers entering into the country. Upon arriving in Israel, however, asylum seekers have found a state that is reluctant to take them in and a citizenry unwelcoming to outsiders perceived as a divisive "other." This "otherness" is perceived as a danger to many in Israeli society, who bear concerns that, as a fact of their "otherness," asylum seekers threaten to alter the social and political dynamic of a state that is still young and working to ameliorate a number of national issues. The paper will analyze this perception and discuss how it has influenced the development of the asylum regime. The first section provides an overview of the international asylum regime in order to contextualize the history and events in Israel. The second section provides a history and analysis of the development of the Israeli asylum regime from its earliest days to the present, highlighting key factors and events that have impacted the growth of the regime. The third section discusses a number of influential facets of Israeli society that impact Israel's approach to and perspective of refugees. The final section offers conclusions on how the Israeli asylum regime may move forward, extrapolates the case of Israel to a global context, and suggests possible paths for future research.

EXECUTIVE SUMMARY

This paper seeks to explore the Israeli asylum regime and its development since the state's inception while uncovering the norms and rationales that affected the formation of the asylum regime. Israel's asylum regime has changed drastically over the last decade, due to a large influx of refugees and asylum seekers coming to Israel as a haven. However, refugees and asylum seekers have come to be perceived as a burden and a threat to Israel, and as such their welcome to the state has been less than inviting. This paper treats Israel as a case study, analyzing the history and formation of the asylum regime to not only better understand Israel's treatment of refugees, but also to extrapolate the findings in order to apply the learning to the global refugee crisis. While Israel's 45,000 refugees and asylum seekers may seem negligible next to the global scale, there are a unique confluence of factors that, when parsed, can provide significant lessons that can be understood on a global scale. To fully explore the Israeli asylum regime and its motives, this paper first looks at the international asylum regime in order to contextualize the Israeli system, and then discusses the Israeli asylum regime's history and Israel's relationship with refugees before providing conclusions about Israel's regime and how these lessons can apply on a global scale.

First, this paper discusses the international asylum regime and the conventions and norms by which it is guided. The United Nations High Commissioner for Refugees (UNHCR) and the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol guide the international regime and create global norms. However, this paper demonstrates that while these guiding principals and rules are useful, they are antiquated and do not provide sufficient regulation or specificity to meet the growing needs of a rapidly changing world.

The paper then goes through a history of the Israeli asylum regime, beginning with the inception of the state. While Israel did not have a much of a formal asylum regime for the first decades of the state's existence, a number of laws were passed in the early days of the state that regulated entry into country. These laws, some pertinent to Jewish immigration and others to non-Jewish entry, created norms and a protective immigration system in which Jewish immigration was made a priority, while non-Jews where normatively unwanted by the Israeli government. Such laws set the stage for decades down the road, when Israel would take a more active role in its asylum process. Beginning in 2002, Israel shared the refugee status determination process with the UNHCR. Then in 2006, Israel began experiencing a massive influx of refugees and asylum seekers, most of whom were fleeing dangerous conditions in their home countries of Eritrea and Sudan. In response to this influx, Israel implemented a number of policies, many of which are controversial, to limit the flow of asylum seekers, and in 2009 took full control over the refugee status determination process. This afforded Israel greater control over who is allowed into the country, and Israel has continued to enact policies intended to lessen its burden from refugees and asylum seekers.

The paper then discusses a number of unique factors that affect how the Israeli asylum regime was shaped. It takes into account questions of demographics, security, and the conflict with the Palestinians in order to understand the mindset shaping Israel's approach to refugees. The paper analyzes these facets to explain why they are relevant to the asylum debate and to show that Israel has distinct reasons for being averse to the presence of asylum seekers. It further describes Israel's relationship with refugees in light of its history with the Holocaust, and depicts many Israelis' empathetic relationship to new refugee populations. These factors demonstrate

that Israel is uniquely situated in a way that creates a complex narrative of the rights for and responsibility to refugees.

The paper concludes with a summation of Israel's asylum regime and the factors behind its formation. It describes the ad hoc approach Israel has taken to asylum policy in light of elements that impact the Israeli public's perception of refugees. With these unique facets in mind and in light of how they have influenced policy in Israel, the paper ends with suggestions on how these understandings can be applied to the international system. The international asylum regime is proven to be insufficient, though still important and necessary, to address current refugee issues. The case of Israel highlights some of these shortcomings, and the paper suggests how to apply the learning to improve both Israel's asylum regime and the international approach to refugees.

TABLE OF CONTENTS

Abstract.....	ii
Executive Summary	iii
Introduction.....	1
Chapter I: The International Asylum Regime	5
Chapter II: The Israeli Asylum Regime and Related Policy	9
Refugees in the Early Days of Israel: 1948-2002	11
An Emerging Asylum Regime: 2002-2006	13
Asylum Seekers Come to Israel: Who They Are.....	15
Israel's Asylum Regime Expands: 2006-Present Day	17
Chapter III: Roots of Israel's Perception of Refugees	34
Demographics of a Jewish State	35
The Palestinian Question	38
Security Concerns	39
Collective Memory of the Holocaust.....	42
Chapter IV: Conclusions.....	44
References.....	50

INTRODUCTION

Over the last decade, Israel's asylum regime has been significantly upgraded to meet the growing needs of the state to manage an unprecedented flow of asylum seekers entering into the country. Sustained conflict in a number of African countries has led many citizens of these states to flee out of fear for their safety and in hopes of finding a better life. A number of these asylum seekers, primarily from Sudan and Eritrea, have turned to Israel as a place of refuge, hoping that Israel would be able to provide them with safety and a decent life in which they could escape their troubled homelands. Upon arriving in Israel, however, asylum seekers have found a state that is reluctant to take them in and a citizenry unwelcoming to outsiders perceived as a divisive "other." This "otherness" is perceived as a danger to many in Israeli society, who bear concerns that, as a fact of their "otherness," asylum seekers threaten to alter the social and political dynamic of a state that is still young and working to ameliorate a number of national issues. This paper will explore the Israeli asylum regime and its development since the state's inception and will discuss the rationales and motives behind national policy and public perception of asylum seekers.

The issue of refugees in Israel has previously been studied from a number of lenses. One of the more predominant lenses is that of the immigration-asylum nexus. Many argue that Israel's asylum regime is closely tied with its immigration policies, such as Tally Kritzman-Amir and Yonatan Berman, who argue, "the recently developed asylum system in Israel follows the same norms central to Israel's citizenship and immigration process" (2011). Kritzman-Amir and Berman posit that, as both sets of policies relate to who is allowed into the country, Israel's asylum regime is too closely tied to its interests in controlling immigration, which has resulted in the mistreatment of asylum seekers coming to Israel for refuge. Likewise, Hadas Yaron, Nurit

Hashimshony-Yaffe and John Campbell assert that “Israel’s treatment of African asylum seekers as ‘infiltrators’/economic migrants stems from an insistence on maintaining immigration as a sovereign issue formally isolated from other policy domains” (2013). Yaron and her coauthors highlight terminology used to frame African asylum seekers as a threat, linking the desire to keep out asylum seekers with Israel’s interests of a strict immigration policy in line with its national interests. Yonathan Paz similarly describes this relationship, noting, “accommodating measures [for asylum seekers] are being rejected for self-preservation considerations, spurred-on by Israel’s ethnonational identity” (2011). While there is indeed a relationship between Israel’s immigration and asylum policies and these papers provide important analyses, the above arguments conflate the two policy realms by insisting that Israel’s immigration system (which is preferential to Jewish immigration) causes an exclusionary approach to asylum policy. Rather, both policy realms are informed by Israel’s national interest to control its demographic makeup, creating parallel regimes with disparate functions.

Kritzman-Amir and Berman also analyze the Israeli asylum regime in the context of responsibility sharing, the idea that burden of protecting refugees should be apportioned amongst the global community. The authors demonstrate that Israel, just as other countries, affirms the necessity of responsibility sharing while it implements policies intended to minimize its share of the onus, as its government believes Israel is receiving an undue burden while other states are not contributing enough (2011). Other research has focused on xenophobic mobilization, such as that of Yoav Duman, who analyzes the styles of discourse and policies promoted by Israel’s right-of-center politicians as a means of “forestalling long-term settlement and avoiding the liberalization of its asylum regime” (2014). By studying Israeli discourse, Duman ascertains a number of

causes of xenophobia within the Israeli public, shedding light onto the formation of the Israeli asylum regime.

Further studies have analyzed asylum regimes on a global scale, the implications of which are informative to Israel's particular case. Loren Landau and Roni Amit argue that there is a "narrow practical and analytical value of focusing on legal reforms and formal 'refugee' policy as determinants of protection," given that refugee issues are often dealt with through informal or unstructured means, and that such formal policies have "only limited practical protection effects" (2014). They suggest that asylum research should include a focus on an array of social and political factors that affect formal asylum policy in order to better understand the practical effects of such policies. In the same vain, James Milner suggests that the global asylum regime can only provide basic guidelines for addressing asylum issues, and that specific regional dynamics call for solutions tailored to a specific region (2014). Milner further proposes that studying regional variation of global policy can help to highlight the strengths and weaknesses of the international asylum regime, and that due to the variations between regions, a transnational approach to asylum policy may be more effective than a global approach. Milner's intent to focus on distinct regional factors provides the important lesson that unique variables exist in every case, pivotal in the case of Israel, which inform how the global asylum regime is implemented.

Before exploring Israel's asylum regime, it is necessary to articulate the variety of nomenclature used in the context of asylum, according to international norms. Though the term "migrants" is not defined under international law, for the purposes of this paper it will be used as an umbrella term that broadly refers to persons moving from one state to another. A refugee, as defined by international law, is as a person who,

“As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it” (UN General Assembly, 1951).

The term “asylum seeker” refers to “individuals who have sought international protection and whose claims for refugee status have not yet been determined, irrespective of when they may have been lodged” (UNHCR, 2016). Internally displaced persons (IDPs) are “individuals who have been forced to leave their homes [...] in order to avoid the effects of armed conflict, situations of generalised violence, violations of human rights, or natural or man-made disasters, and who have not crossed an international border (UNHCR, 2016). “Economic migrants” is a “term used by governments to refer to people seeking better opportunities, as opposed to ‘refugees’ fleeing from persecution or danger” (Van Esvled, 2008). Finally, the term “irregular entry” refers to anyone entering into a country without passing through an official border post (Simpson, 2014). Some of these terms, such as “refugee” and “asylum seeker,” are used interchangeably in colloquial discourse, though their distinct definitions bear consequential differences to a person’s legal status.

Below, this paper suggests that Israel’s asylum regime is a natural product of the state’s ethnonational identity and geopolitical circumstance. The analysis employs a methodological process of reviewing the history of asylum in Israel and exploring elements unique to the state and the people that would foster the type of system currently in place in Israel. This research

relies on empirical data from a number of sources to identity the trends in the rise of refugees and asylum seekers in Israel over the past decade, supported by an array of documents, public statements, and accounts of hardships that asylum seekers in Israel have faced. The paper consists of four parts. The first section provides an overview of the international asylum regime in order to contextualize the history and events in Israel. The second section provides a history and analysis of the development of the Israeli asylum regime from its earliest days to the present, highlighting key factors and events that have impacted the growth of the regime. The third section discusses a number of influential facets of Israeli society that impact Israel's approach to and perspective of refugees. The final section offers conclusions on how the Israeli asylum regime may move forward, extrapolates the case of Israel to a global context, and suggests possible paths for future research.

I. THE INTERNATIONAL ASYLUM REGIME

To understand the refugee issue in Israel and the Israeli asylum regime, it is first important to understand the international asylum regime and the global context in which Israeli actions take place. The United Nations High Commissioner for Refugees (UNHCR), founded by the UN General Assembly in 1950, is the leading body overseeing refugee policy and ensuring the rights of refugees and was established “with a mandate to protect refugees and to seek solutions to their disconnection from national protection” (Goodwin-Gill and Newland, 2003). As such, the UNHCR works extensively with states to ensure that refugees are protected, that appropriate regulations and procedures are followed, and to foster solutions to end the global problem of refugees. In addition to the UNHCR, the international asylum regime is predominantly guided by two UN documents, the 1951 Convention Relating to the Status of

Refugees (Refugee Convention) and the 1967 Protocol Relating to the Status of Refugees (Refugee Protocol), which the UNHCR is tasked with the duty to uphold and enforce. The Refugee Convention, adopted in the wake of World War II and the Holocaust, was in part crafted by Israel, due to its direct connection to the Holocaust and the refugees that it created, and looked to create norms and regulations to address what was the worst refugee crisis the world had seen (Milner, 2014). Notably, the Refugee Convention confines the definition of refugees to those who became refugees prior to 1951, and applies primarily to European refugees. These geographic and time restrictions were removed by the Refugee Protocol, which was formulated to “broaden the applicability of the 1951 Convention” (UNHCR, 2011). One of the most important features of the Refugee Convention is the obligation of non-refoulement, which prohibits the return of refugees to territory in which their life would be threatened for reasons pertaining to their status as refugees (Simpson, 2014). This provision is a guiding principal of the Refugee Convention and serves as a crucial assurance that the global community bears a responsibility to keep refugees from dangers they would face in their home countries.

With this international asylum regime in place, the world has come a point where the importance of such a regime is gravely felt. At present, the world is experiencing a global refugee crisis the likes of which have not been seen since the end of World War II. By the end of 2014, the UNHCR had recognized 55 million persons of concerns, which includes refugees, asylum seekers, IDPs and other categorizations, and the numbers since then have only continued to grow (UNHCR, 2016). This staggeringly high number of persons of concern is largely contributed to by those fleeing the ongoing conflict in Syria, which has moved into the fifth year since the violence broke out. The immense volume of persons of concern has strained the

international asylum regime, as well as states that bear the bulk of the burden, highlighting shortcomings of the regime.

With these shortcomings exposed, many have been critical of the international asylum regime, portraying it as “a relic of the Cold War and as inadequate in the face of ‘new’ refugees from ethnic violence and gender-based persecution” (Goodwin-Gill, 2008). Newly recognized causes of displacement, such as gender-based persecution, are a concern for many observers of the system, as the regime, based on the Refugee Convention and Protocol, never envisioned these types of refugees, such as those displaced by environmental upheaval. Additionally, the Refugee Convention and Protocol leave many unanswered questions, and the guidelines provided are often seen as insufficient to provide adequate direction to handle new and growing refugee issues (Goodwin-Gill and Newland, 2003). While the Refugee Convention and Protocol do contain rights of refugees and instructions for addressing refugee problems, the broad nature of the documents make it difficult to find precise ways in which to address current refugee issues.

An important issue that is not fully addressed by the Refugee Convention and Protocol is that of whose responsibility it is to care for refugees. As caring for refugees innately places a burden on the host country, states are generally reluctant to shoulder the responsibility, and though “international law does recognize the need for some form of responsibility sharing between states, this principle is framed in a loose, highly generalized, and non-binding manner” (Kritzman-Amir and Berman, 2011). This leaves for a large ambiguous area in which states attempt to minimize or shirk their global responsibility to aid refugees. States across the globe understand the importance of their commitment to the Refugee Convention and Protocol, but when it comes to acting on this commitment, the onus of hosting refugees places a burden on the

state's capacity and resources that is in general antithetical to the state's national interests.

Another problem with the concept of responsibility sharing is that "responsibility is allocated between states quite arbitrarily, by an amorphous principle some call 'accidents of geography'" (Kritzman-Amir and Berman, 2011). The 'accident of geography' places the greatest burden on the states in closest proximity to states from where refugees come, as those fleeing their home state can easily only make it so far from their homes. While further states may be able to contribute money or aid, the actual responsibility falls on these nearby states, which are often developing countries with many problems of their own, and may not even be a safe place of asylum for fleeing refugees.

Along with practical issues like responsibility sharing, the more conceptual issue of state sovereignty is challenged by the international asylum regime. This is a common and natural effect of inter-state agreements, as they require sovereign entities to conform to agreed-upon rules and norms. In the case of the international asylum regime, the system, namely the Refugee Convention, "places a legal constraint upon signatory states against the otherwise well-established right to decide who may enter and remain on their territory" (Gammeltoft-Hansen, 2013). States traditionally have the power to control who comes into the country and who is kept out, but by acceding to the Refugee Conventions, states agree that they will waive this power to an extent as it pertains to refugees. This creates an inherent tension between a state's sovereignty and its commitment to the international system. Another norm challenged by refugee issues is that of citizenship. As refugees flee their home states, they remove themselves from the auspices of the state, and for the time being effectively belong to no state.

The international asylum regime is an imperfect system, and bears a number of faults, exacerbated by recent developments, which must be addressed. However, as Thomas Gammeltoft-Hansen writes,

“International refugee law may not always be deep or inclusive enough, may lack the international enforcement capacity of other human rights treaties, and may not always be respected by the governments which formally endorse it. Yet, it is seen by many as a bulwark against the sometimes treacherous forces of politics, and leaving it at the wayside in exchange for more or less pragmatic solutions promises little from a rights-based perspective” (2013).

In this defense of the international asylum regime, Gammeltoft-Hansen asserts that this flawed system is what allows for any progress to be made regarding the plights of refugees. The global regime can only provide guidelines, within which actors carry out policies that vary dependent on individual cases and the regional dynamics in which they occur (Milner, 2014). The regime is necessarily loosely structured in order to allow for unseen variables and developments, as well as to provide enough breadth to create a consensus amongst states with disparate national interests. Within this imperfect system, the State of Israel faces its distinct concerns regarding asylum seekers and must work to meet its international obligations to refugees while pursuing its own national interests.

II. THE ISRAELI ASYLUM REGIME AND RELATED POLICY

The State of Israel has a long and complex relationship with refugees. In the current global context, Israel’s role within the international community is fairly minimal; of the 16.2 million recognized refugees and asylum seekers around the world (as of the end of 2014, the

most recent numbers), Israel only hosts roughly 45,000, less than half of one percent of the global total (UNHCR, 2016). Despite this small share of global refugees, Israel provides an interesting case study in which much of the contention surrounding the current worldwide refugee crisis can be analyzed. The question of refugees first became a salient issue in Israel in 2006, when the state began to see a large influx of Sudanese, followed in 2007 by Eritrean, asylum seekers crossing Israel's border with Egypt in hopes of attaining refugee status in Israel. Since then, Israel has undergone a significant debate regarding what to do about the rise in asylum seekers, who have been deemed "infiltrators" by many in Israeli society, which has led to the adaptation of existing policy and the growth of Israel's asylum regime in order to keep up with the daily increasing number of asylum seekers who are perceived as potential danger to Israeli society.

Before the matter of refugees became a salient issue in Israel, the asylum regime in Israel was nascent and had gone largely untried. Israel had only truly established a functioning asylum regime in 2002, in order to combat a rising number of undocumented migrants entering the country (Sabar and Tsurkov, 2015). Because the increase in undocumented migrants was only slight at the time, the effects of the newly implemented system were minimal and the changes were unfelt by the majority of Israeli society. The dramatic increase of asylum seekers in 2006, however, set in motion the period of time in which the asylum regime began to take shape and expand to combat the rise of migrants. Before describing how the Israeli asylum regime commenced and why it has evolved in the manner it has, it is necessary to understand Israel's relationship with refugees from its earliest days and the purposeful dearth of a structured asylum system.

Refugees In The Early Days Of Israel: 1948-2002

To fully comprehend the refugee situation in Israel is to understand the founding of the state itself. Israel, established in 1948, was founded in the wake of World War II and the Holocaust, which fundamentally shaped the nature of the burgeoning state. While Zionism, the movement for the Jewish homeland of Israel, had begun to flourish half a century prior, the devastation of the Holocaust concretized the need for a Jewish state. As the dust began to settle after World War II, 250,000 Jewish refugees were left displaced in war-torn Europe. These refugees began to migrate from the wreckage of what were once their homes to new lands, over 100,000 of whom embarked on a journey to their emerging homeland (Jewish Virtual Library, 2016). Israel, at its very inception, became a home to refugees. This principle was cemented into the national creed in the state's declaration of independence, which states, "the catastrophe which recently befell the Jewish people - the massacre of millions of Jews in Europe - was another clear demonstration of the urgency of solving the problem of its homelessness by re-establishing in Eretz-Israel the Jewish State" (People's Council of Israel, 1948). The nation's founding was imbued with the ideal that this emerging country would act as a home for the homeless, even if this only explicitly referred to the pressing Jewish homelessness. It is within the context of this foundational principle that ensuing refugee problems have been laid.

Following the creation of Israel, the state began to construct norms that would affect how people enter the country. Internationally, this took shape in Israel's drafting of the 1951 Refugee Convention and its early ratification of the document, as well as the later adoption of its 1967 Protocol. Israel saw this as an opportunity to enshrine in international law the protection of Jewish refugees who had been displaced by the Holocaust (Giladi, 2015). However, while Israel played a role in the shaping of international refugee policy, its commitment to the Refugee

Convention has been largely nominal, as “Israel has refrained from adopting primary legislation regulating the grant and withdrawal of refugee status, treatment of asylum-seekers, and the status of persons protected from forcible removal” (Ziegler, 2015). Israel has instead dealt with asylum seekers in an ad hoc manner, preferring not to create a legal regime that would establish definite procedures for addressing asylum seekers. This is largely due to the problem of Palestinians displaced by Israel’s 1948 War of Independence (*al Nakba*, or catastrophe, to the Palestinians) and to the national goal of maintaining a Jewish demographic majority in the fledgling state. In ratifying the Refugee Convention, Israel “was aware that the Convention would normally not apply to ‘Palestine refugees’ in its neighbouring states who receive assistance from UNRWA” (Ziegler, 2015). This was done with the intent of entrenching Israel as a Jewish state and preventing the displaced Palestinians from returning to the newly formed country. The issues concerning Palestinians and demographics will be further elaborated upon later in this paper.

Domestically, Israel did establish a number of laws pertaining to entry into the country that have had a lasting impact on Israel’s approach toward asylum. Acting on its declaration as a specifically Jewish state, the Israel government passed the Law of Return in 1950, which states that all Jews (fitting a specified definition) have the right to citizenship in Israel, while providing no naturalization procedures to non-Jewish immigrants (Law of Return, 1950). This established a legal preeminence of Jewish immigration within the state, further reflecting Israel’s Jewish nature. Additionally, the Israeli government passed the 1952 Entry into Israel Law, which provides procedures for entry and residence to all those who are not an *oleh* (Jewish immigrant) and sets forth means for deportation for anyone without a residence permit (Entry into Israel Law, 1952). Following instances of Palestinian attacks within the country, the Israeli government passed the 1954 Prevention of Infiltration Law as a national security measure. This law defines

infiltrators as “a person who has entered Israel knowingly and unlawfully,” “a national or citizen of the Lebanon, Egypt, Syria, Saudi-Arabia, Trans-Jordan, Iraq or the Yemen,” and “a Palestinian citizen or a Palestinian resident,” and sets procedures for the detention of any declared infiltrators (Prevention of Infiltration Law, 1954). The law additionally states, “a person who enters Israel without permission or who is in Israel unlawfully is, for the purposes of this Law, deemed to be an infiltrator so long as he has not proved the contrary” (Prevention of Infiltration Law, 1954). This clause sets the stage for applying the label of infiltrator to Africans who enter Israel without authorization. Under the framework of these laws, Israel managed entry to and residence in the country for the next five decades.

An Emerging Asylum Regime: 2002-2006

While, during the state’s first half century, there were instances of contention over migrant workers residing in the country and occasional claims of asylum (such as Vietnamese, Bosnian and Albanian refugees), these occurrences were dealt with under the incipient asylum regime in an ad hoc manner that reflected the lack of substantial legal procedures and regulations (Ziegler, 2015). Prior to 2002, Israel had almost entirely left the refugee status determination (RSD) process to the UNHCR, which would register and assess all asylum requests in Israel before sending its recommendation to the Israeli officials for either final approval or denial (Yaron et al., 2013). The UNHCR’s large role in Israel’s RSD process made it possible for Israel to maintain its minimal asylum regime, and the lack of domestic asylum policy allowed Israel to narrowly apply its international commitment to refugee protection. However, by 2002 problems with migrant workers and asylum seekers became more substantial and increasingly common, namely including “a hunger strike by refugees who had petitioned the Supreme Court,” and the

government determined to redesign and enlarge the asylum regime in order to contain and keep out undocumented migrants (Yaron et al., 2013). The new regime set in place created a hybrid system, expanding the role of the Israeli government in its RSD process.

This new asylum regime dictated that the UNHCR would conduct interviews and examine asylum requests, providing the information to a newly formed inter-ministerial committee, the National Status Granting Body (NSGB), which would formulate a recommendation sent to the minister of the interior for a final decision (Kritzman-Amir, 2012). This process made it so it was Israeli officials deliberating on applications, taking away this responsibility from the UNHCR and giving the Israeli government greater power over determining refugee status. Under this heightened asylum regime, “individuals whose applications were approved by the NSGB were entitled to receive a temporary residence identity card,” but were not granted permanent status (Yaron et al., 2013). Furthermore, the Prevention of Infiltration Law was amended to include Sudan in the list of enemy states, nationals of which were precluded from the asylum process altogether (Yaron et al., 2013). Thus began the modern era of the Israeli asylum regime, and though the system became more structured, the overall regime remained vague and with very few domestic laws to guide the state’s international commitment. While the asylum regime was redesigned in order to better manage refugee issues, there remained an extremely small number of asylum seekers within Israel. Because of the small proportion of refugees, the regime went largely untried until 2006, when the nation began to see a massive influx of asylum seekers that would strain the system and expand the magnitude of the refugee issue in Israel to the highly contentious issue it is today.

Asylum Seekers Come To Israel: Who They Are

When Israel's recently enhanced asylum system was first truly tested in 2006, Israel had only experienced asylum seekers entering the state at a nominal level. Until then, fewer than 3,000 asylum seekers had crossed Israel's border (Sabar and Tsurkov, 2015). Beginning in early 2006, Sudanese, later followed by Eritrean, asylum seekers began pouring into Israel by the increasing thousands. Many point to the Mustapha Mahmoud Park Massacre in Cairo on December 30, 2005 for sparking a refugee exodus from Egypt into Israel. This massacre occurred when, "after a peaceful sit-in of Sudanese and South Sudanese families outside the offices of the UNHCR in Cairo [that] had gone on for three months, Egyptian security forces opened fire on the crowd, killing fifty-six people and detaining hundreds" (Sabar and Tsurkov, 2015). Egypt at the time hosted roughly 43,000 recognized refugees and asylum seekers (not including Palestinian refugees), many of whom left for Israel after the massacre, which they saw as a culmination of prolonged instances of violence, detention, torture (Van Esveld, 2008), racism and lack of access to work (Simpson, 2014). Israel's asylum regime today exists as it does because of these asylum seekers who had nowhere else to turn.

Of course, asylum seekers and refugees who left Egypt for Israel faced hardships long before they reached a country of asylum. Sudan has been in a state of conflict since 2003 and the genocide in Darfur, throwing the entire nation into strife. As one asylum seeker living in Tel-Aviv explained,

"I left El Ginena [West Darfur] in 2003, in April, the last of the month. Because the Janjaweed attacked my village, Arwalla. They raped women, and they killed the eldest and the kids and they threw them in the fire. I saw. I saw my parents, my mother, father, brother, and sister being killed and they burned our houses. And I saw them rape women."

This happened to me. I was alone when I left, none of my family made it” (Van Esveld, 2008).

This illustration of the horrors faced by the Sudanese demonstrates the dire need for many to flee their home country, which led them to Egypt and eventually Israel. Eritreans, too, have faced horrible conditions and abuses, including “mass long-term or indefinite forced conscription and forced labor, extrajudicial killings, disappearances, torture and inhuman and degrading treatment, arbitrary arrest and detention, and restrictions on freedom of expression, conscience, and movement” (Simpson, 2014). The people of both nations have long endured oppression motivating their departures, though “they are also intimately intertwined with the ‘globalisation of asylum seeking,’ underdevelopment and economic incentives which often explain secondary movements” (Paz, 2011). The evolving nature of globalization and its affects on the people of the world, particularly in third world countries, creates multiple motives for migration, complicating the categorization of migrants as well as increasing their numbers.

With this as the stage for asylum seekers entering Israel, it is worth discussing why Sudanese and Eritrean asylum seekers are coming to Israel in particular. As previously described, most had simply gone to Egypt, which had afforded many with refugee status and provided a place for refugees to make lives for themselves, even if not ones of high quality. Refugees and asylum seekers only began heading toward Israel as Egypt increasingly became an unfriendly and unsafe place to live. This illustrates that “Israel is seen as a destination of last resort; refugees coming there do not have the money or social networks to get to Europe or America” (Furst-Nichols and Jacobsen, 2011). Far more of the world’s refugees are attempting to get to Europe, but this is a hard and dangerous journey. Israel stands as the nearest and most accessible, it is reachable via land rather than sea, state for Sudanese and Eritrean asylum seekers

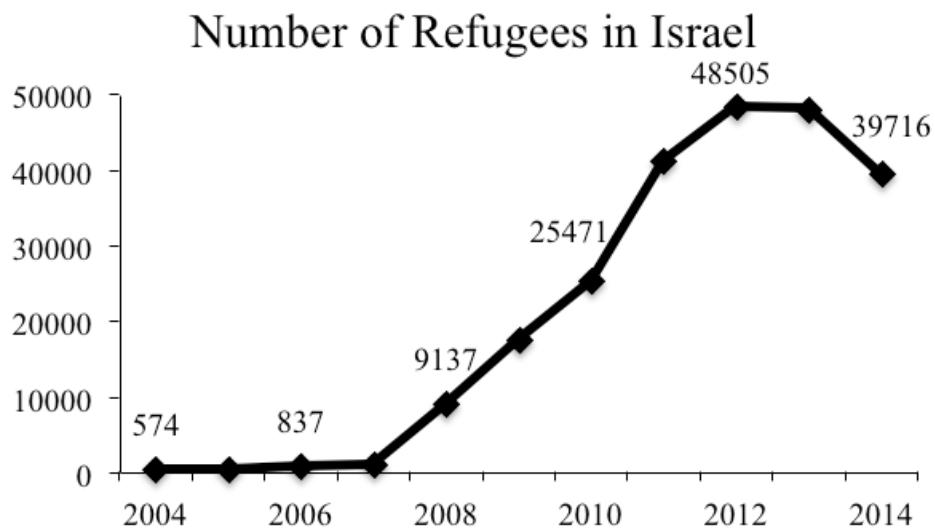
to migrate. Additionally, Israel is a democracy, which when compared to other states in the region indicates that there is a greater likelihood for the possibility of safe residence. As a Darfuri man arrested by the Egyptian border police as he tried to enter into Israel stated, “my choice was to stay in Cairo, go through Libya [to Europe] and maybe die at sea, or go to Israel and die by a bullet. I preferred to die by a bullet” (Van Esveld, 2008). None of his options were good, but he reasoned that he stood the best chance attempting to get to Israel, where he could hope for the opportunity of a better life. The Darfuri man mentions the possibility that he would “die by a bullet,” referring to multiple instances in which Egyptian border police have shot at and killed migrants as they attempt to cross from Egypt into Israel (Van Esveld, 2008). His admittance that of all his options, he would choose to try to make it to Israel is exemplary of Israel not being the first choice for Sudanese and Eritrean asylum seekers, but the best chance they have.

Israel’s Asylum Regime Expands: 2006-Present Day

As Israel experienced a continually increasing influx of asylum seekers choosing to cross into its borders, the state’s incipient asylum regime began to be modified to adapt to the challenges and perceived threats posed by the large number of asylum seekers entering Israel. With less than 1,700 refugees and asylum seekers in Israel prior to 2006, a surge that left over 54,000 refugees and asylum seekers in Israel just six years later posed a drastic change in the functioning of Israel’s asylum regime (UNHCR, 2016). As a result of this influx, of the 45,000 refugees and asylum seekers in Israel at the time of this writing, 73 percent have come from Eritrea and another 19 percent have come from Sudan (Hotline, 2016), creating a dynamic that the Israeli system was not prepared to manage. As Graphs 1 and 2 demonstrate, the number of

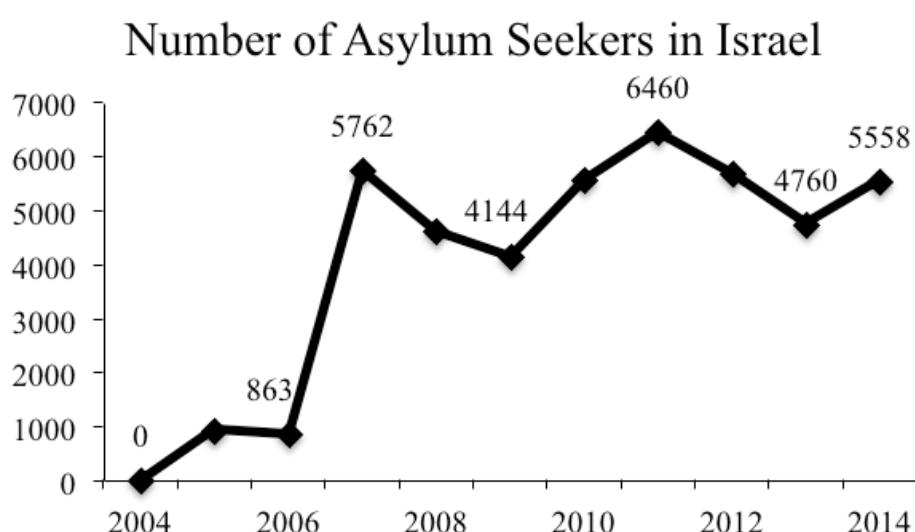
refugees and asylum seekers, respectively, in Israel grew dramatically from this point in time. It is important to note, however, that the numbers in 2006 remain relatively low because most of those who did enter into Israel during this year, and many in following years, were pushed back out of the country and are therefore not counted in these graphs totals, which represent the numbers of refugees and asylum seekers living in the state at the end of each year.

Graph 1.



Under the pressure of increasing numbers of refugees and asylum seekers, the Israeli government sought to stem the incoming tide, utilizing the asylum regime and a number of laws

Graph 2.



Source: www.unhcr.org/statistics/populationdatabase

to form a system in which entry into Israel could be tightly controlled and that those already in Israel could be managed. Because of Israel's reluctance to take in refugees, the state has employed "a patchwork of administrative decisions and political strategy [to] block access to refugee status," the doing of such can be viewed, as Yonathan Paz terms it, a system of "ordered disorder" (Paz, 2011). This sense of "ordered disorder" was made possible because Israel's asylum regime was existent at such a minimal level that intentional gaps in policy provided an institutionalized ability to leave asylum seekers in a legal grey area. In its adaptation of the state's asylum regime and pertinent laws during this period, the Israeli government allowed itself latitude in its international commitments to the rights of refugees in order to keep out and deter unwanted asylum seekers. As such, the "ordered disorder" of the Israeli asylum regime was designed so that "the range of measures employed to send a 'no-entry' signal, and the array of deterrence signals used to reduce the numbers of future arrivals, [would] establish the temporariness of asylum claims in Israel" (Paz, 2011). Through occasionally contentious debate, this temporariness of asylum was sought through the modifications of the asylum regime that occurred during this time.

Detention: Amending the Prevention of Infiltration Law

Of various policies employed by the Israeli government to curb the flow of asylum seekers, one of the first actions taken was to detain irregular entries from Egypt into Israel. In 2006, as Israeli authorities began to see that asylum seeker entry into the state was fast growing, the government began to hold asylum seekers in detention without trial, many of whom were held for almost a year, in the newly constructed detention facility Saharonim (Sabar and Tsurkov, 2015). This action was with the intention not only to hold irregular entries that may be potential

threats, but also to encourage them to depart the country, as well as to serve as deterrence for Africans who might potentially try to cross Israel's border. As asylum seekers increasingly continued entering the country, the government repurposed the Ketziot detention center, originally designed for Palestinians during the First Intifada, to hold more than 1,000 asylum seekers for whom Saharonim no longer had capacity (Krtizman-Amir, 2012). The Israeli government justified the detention of these Africans under the auspice of the Prevention of Infiltration Law, as they were deemed to be potential security threats by virtue of their citizenship of an enemy state, essentially keeping them from the RSD process (Paz, 2011). By effectively barring asylum seekers from the RSD process, the detention of irregular entries into the state further kept asylum seekers in a legal grey area of temporary status, precluding asylum seekers from integrating into Israeli society and making Israel a permanent place of refuge.

While the Israeli government has utilized detention of irregular entries to curb the flow of asylum seekers, many groups have criticized the government's actions, arguing that the government's actions contravene Israeli law. As such, the Israeli government, under both Prime Ministers Olmert and Netanyahu, pushed amendments to the Prevention of Infiltration Law that would allow the government a greater authority to hold asylum seekers in administrative detention (Sabar and Tsurkov, 2015). While numerous bills were proposed, none were passed until January 2012, when the Knesset passed a third amendment to the Prevention of Infiltration Law, authorizing the government to detain all irregular entries into Israel for three years, with the potential for indefinite detention (Simpson, 2014). To further protect against potential threats, and by doing so keeping asylum seekers from Israeli society, "the legislation mandated that 'infiltrators' applying for asylum could be detained throughout their RSD process, unless their application had been lodged but disregarded for over three months, or if its assessment had

begun but a decision had not been rendered for nine months” (Ziegler, 2015). By enacting this legislation, the government made clear that it would continue to use detention as a deterrent to fight against the increasing asylum threat.

After much petitioning from the civil society sector, Israel’s Supreme Court voided the 2012 amendment to the Prevention of Infiltration Law in September 2013, on the grounds that it violated the “constitutional right to liberty and human dignity” (Ziegler, 2015) of those being detained, and because “detention was only justifiable pending deportation and, according to Israeli officials’ own statements, neither Eritreans nor Sudanese could be deported to their home countries” because of their asylum claims (Simpson, 2014). As a consequence of this ruling, all those who had been detained under the amendment were to be released. Of the roughly 1,750 asylum seekers that were detained, only 800 were released before the Knesset passed a fourth amendment to the Prevention of Infiltration Law in December 2013 (Sabar and Tsurkov, 2015). An adaptation of the previous amendment, the new law mandated that “asylum-seekers who entered Israel were to be detained without trial for a year in Saharonim prison. Following this period of detention, they were to be transferred to a semi-open detention camp and held there indefinitely or until they ‘agree’ to be deported to their country of origin” (Sabar and Tsurkov, 2015). While the law aided the determination of identity and assisted the RSD process, it had the express purpose to “prevent absorption and assimilation [of asylum seekers] into Israeli society by physically separating ‘infiltrators’ from Israelis” (Ziegler, 2015). As part of this legislation, the Holot detention facility was built to provide additional space to hold detainees, and though detainees were allowed to come and go, mandatory check-ins made it extremely difficult to hold a functioning life outside of the facility, as Holot is located in a remote part of the Negev Desert (Ziegler, 2015). Then, in September 2014, the Supreme Court overturned most of the fourth

amendment, while allowing Holot to continue functioning for an additional ninety days (Ziegler, 2015). In response, the Knesset passed a fifth amendment to the Prevention of Infiltration Law in December of the same year. This newest law stipulates three months of detention for irregular entries in Saharonim before being transferred to Holot for an additional twenty months, and should their status not be determined after almost two years, then they will be released into Israeli society (Sabar and Tsurkov, 2015). While this amendment was challenged in the courts, the Supreme Court upheld this law as it is sufficient under Israeli law and provides finite periods of detention (Ziegler, 2015). As a result of these laws, over 9,000 asylum seekers have left Israel since 2013, “most hav[ing] returned to their homelands, while several hundred have moved to Europe and North America, and about 1,000 to Rwanda and Uganda, two African countries that have agreed to receive ‘infiltrators’ from Israel in exchange for aid from Israel” (Sabar and Tsurkov, 2015). The Israeli government’s continued pursuit of policies to cut down on asylum seekers has proved an effective means by which to deter asylum seekers and keep the ones already in Israel from assimilating into Israeli society.

This back and forth between the Knesset and the Israeli courts demonstrates a core tension in Israel’s approach to asylum. While Israel does bear responsibility to asylum seekers and aspects of the government are in place to uphold its commitment and to ensure basic rights are afforded to those who deserve them, other influences within the government raise concerns over the potential threat posed by asylum seekers and work to implement policy that would protect the country, even if it may be at the expense of potential refugees. By passing laws stringent toward asylum seekers, the government makes clear that its primary concern is to dispel the threat that asylum seekers may pose. When the courts overturn these laws, however, it shows that the Israeli system is cognizant of its own laws and international obligations to assist asylum

seekers. In the intersection of these forces on the state, the government has found its way to create a system in which these decisions exist in a grey area, caused by an intentional “ordered disorder” created by the confluence of policies that have been shaped by the Knesset and Supreme Court.

Updating the Refugee Status Determination Process

In addition to policies of detention, the Israeli government has also continued to amend the RSD process, further advancing the “ordered disorder” of the Israeli asylum regime. In 2008, the Olmert government established the Population, Immigration and Borders Agency (PIBA) as an arm of the Ministry of the Interior. PIBA was tasked with overseeing the RSD process as the government moved to adapt the process to handle larger amounts of asylum seekers (Ziegler, 2015). This was created as an interim process, as Israeli officials began to fully comprehend the trend of rising numbers of asylum seekers and determined that its management of the RSD system was no longer sufficient to adequately control such large amounts of asylum seekers.

In 2009, the government determined that the best course of action would be to give the Ministry of the Interior full responsibility over the RSD process, which meant that the UNHCR, which since 2002 had been jointly responsible for the RSD process, moved to simply an observatory and advisory role in determining refugee status (Sabar and Tsurkov, 2015). As part of this transition, Ministry of the Interior and PIBA workers participated in “a comprehensive preparatory process which involved training by UNHCR and other organisations, who commended the government for its efforts” (Paz, 2011). While this move to full control over the RSD process does represent the Israeli government taking a greater interest in ensuring the

application of refugee status to those who are deserving, it also provides the government with greater flexibility in determining for itself who deserves refugee status. The director of the UNHCR in Israel commented on this, stating, ““they are quite serious in how they approach [the RSD process], but the biggest drawback [...] is that there is no legal framework in place. There are no published procedural guidelines on their work”” (Friedman, 2010). The UNHCR official highlights that, while taking a greater role in the RSD process can be a beneficial step for Israel in providing protection to asylum seekers, the system within which it is taking place and the manner in which the government is asserting its new role may be greater influenced by the ulterior motive of creating strict regulations on applying for asylum in order to protect the state from potential threat. And while the move of the RSD process to complete control of the Ministry of the Interior is “ostensibly a positive step of taking responsibility for refugee protection [...] the RSD unit exists within ongoing institutional disorder, which severely undermines its capabilities” (Ziegler, 2015). As Ziegler points out, the reconfiguration of responsibility over the RSD process, while potentially creating an improved system for status determination, remains part of a regime in which asylum claims are intentionally addressed in an “ordered disorder” that lacks concrete guidelines and practices for status determination and refugee management.

A large factor of the institutional “ordered disorder” of Israel’s asylum regime is in the nature of the process for affirmatively determining refugee status. The RSD process, as adapted beginning in 2009, was not only moved to total control by the Israeli government, but access to the process was designed to not be guaranteed for all those who wish to apply. Under the amended Prevention of Infiltration Law, anyone deemed to be a national of an enemy state is barred from the RSD process until proven otherwise (Ziegler, 2015). This has kept many

potential asylum seekers from even taking initial steps in gaining refugee status, as Sudan is listed as an enemy state. Additionally, one of the many responsibilities transferred to PIBA has been to identify the country of origin of asylum seekers, a sometimes controversial process as many lack sufficient documentation to meet Israel's stringent requirements for proof (Kritzman-Amir, 2012). As a function of these restrictions, Sudanese and Eritreans, the overwhelming majority of potential asylum applicants, did not go through the RSD process until 2013, instead "receiv[ing] temporary group protection which indicates the government's recognition that they are likely to suffer persecution. This status, however, strategically delays the RSD process and the potential convention status" (Paz, 2011). International law designates that refugee status is determined based on evidence of individual, not group, persecution, and Israel assigning temporary group protection to asylum seekers effectively precludes them from pursuing refugee status (UNHCR, 2011). This group protection served as a tool that the government used in its narrow reading of the Refugee Convention's definition of refugees in order to meet its minimal international obligation to refugees while insulating itself from the potential threat that they pose. While, beginning in 2013, Sudanese and Eritreans have been allowed to file individual claims of asylum through the RSD process, of the roughly 18,000 asylum claims submitted, only 45 have been granted refugee status, a rate unchanged by the allowance of individual claims (Sabar and Tsurkov, 2015). These incredibly low numbers represent that, though the Israeli government had altered its policy to begin allowing individual claims to be filed, it had successfully designed its system to hold the strictest application of refugee status bestowment while still meeting its international obligations.

The confluence of Israel's international obligations and its domestic priorities is important for understanding how the state has designed its asylum regime to function. As Ziegler

highlights, “the RSD procedure does not offer refugees a path to settlement, contrary to the spirit of article 34 of the 1951 Convention” (2015). This argument represents the crux of Israel’s designed “ordered disorder,” that while Israel is working to meet its international obligations, it is aiming to do so in a manner that the *de facto* application of its system serves to meet its national priorities. The shift of responsibility over the RSD process perfectly represents this strategy, as by taking full control over the process, the government has gained the capacity to further regulate its application, leaving asylum seekers in a designed legal limbo.

Refoulement and Hot Returns

One of the most controversial aspects of Israel’s policies to insulate from refugees and create a system that leaves refugee statuses in long-term grey areas is the Coordinated Return Procedure, also known as Hot Return. This Hot Return procedure is intended to prevent irregular entries from establishing themselves in Israel and within the RSD process. Effectively, Hot Returns allow for Israeli police or soldiers to return irregular entries back to the Egyptian side of the border, so long as they were caught shortly after they crossed and in near proximity to the border (Van Esveld, 2008). The controversy over Hot Returns is whether or not this policy constitutes refoulement, which the Refugee Convention defines as the expulsion or return of “a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion” (UN General Assembly, 1951). Turning irregular entries back at the border, therefore, would not be considered refoulement if the state in question, Egypt, provides a safe residency for asylum seekers and “sufficient assurances [...] that the third state [Egypt] would not refoul the deportee to their country of origin” (Ziegler, 2015). While the Israeli

government has assured a verbal agreement with Egyptian authorities that they would not refoulee anyone returned by the Israelis, there is concern that this is inadequate assurance of adherence to non-refoulement (Simpson, 2014). This agreement, however, has not been confirmed and concern remains for the safety of those who may have been returned to Egypt.

The practice of Hot Returns has been widely condemned by the international community, as well as by many refugee rights advocates within Israel, and the Israeli government has thus debated the policy. Despite petitions being brought to the Supreme Court to prevent potential asylum seekers from being returned to Egypt, the court has “consistently refrained from issuing an injunction halting ‘coordinated returns’ based on the state’s periodic updates concerning changes made to the procedure” (Ziegler, 2015). Because the procedure is so heavily scrutinized, the implementation of Hot Returns, and the specific policy allowing for it, had constantly been in flux as the government worked to walk the line between keeping out irregular entries and refoulement. As such, the Supreme Court has decided to take a hands-off approach because of the unclear nature of the policy, allowing for a continuation of the “ordered disorder” trend.

In defense of the Hot Returns, a lawyer from the Ministry of Justice told Human Rights Watch that the question at hand is whether Egypt is a safe country for refugees, arguing that Egypt “has a UNHCR office. It has also signed the Refugee Convention and the African refugee convention. Many people who made it to Israel got recognized in Egypt, [so that] from an Israeli perspective, Sudanese and Eritreans should be protected in Egypt” (Van Esveld, 2008). While the arguments made by the Ministry of Justice lawyer are valid, there is doubt as to whether Egypt in fact provides safety for refugees and does not refoule them to their home countries. In addition, a legal advisor for the state argued that Hot Returns only constitute “prevention of entry, and not deportation from Israel” (Van Esveld, 2008). In his reasoning, this policy falls

under the jurisdiction of the Prevention of Infiltration Law, rather under Israel's international obligations to refugees, as these irregular entries pose a potential threat to the state.

Despite much contention, many irregular entries continued to be returned to Egypt under the Hot Return procedure until 2011, when the state determined that the political upheaval in Egypt required the suspension of its coordinated returns (Ziegler, 2015). As Egyptian President Mubarak was overthrown, the safety for those returned from Israel could no longer be assured, and the Israeli government took the cue to halt any returns. While this has continued to be Israeli policy since 2011, it is unclear whether or not there have been occasional Hot Returns, as some claims have been made that Israeli soldiers and border police have violated the hold on the policy (Simpson, 2014). Though these claims could not be verified, the Israeli government continues to seek solutions that would cut back on unauthorized entry into the state while acknowledging the need to provide appropriate support to asylum seekers (Ziegler, 2015). These concerns, along with the mitigating fact that “the vast majority of border-crossers in the years 2006–2012 have not been refouled” (Ziegler, 2015), are what has led the Supreme Court to refrain from passing judgment on the policy, providing for further institutionalization of an “ordered disorder” created by such gaps in definite legal policy and procedures.

Legal Restrictions and Life in the Margins

Perhaps the most impactful factor of the Israeli asylum regime’s “ordered disorder” is the opaque legal status that asylum seekers hold in the state. As the RSD process leaves a great many asylum seekers in a legal grey area, often awaiting status determination or unable to even begin the process, the government has needed to manage those residing in Israel whose statuses have yet to be determined. The key to this management, as previously discussed, is to meet the

minimal requirements of Israel's international obligations to refugees while preventing them from becoming part of Israeli society, which much of the government perceives as a threat to the state. To accomplish this, the Israeli government has implemented certain measures and restrictions that make it difficult for asylum seekers to work and get access to government services, effectively restricting them to live in the margins of society.

The primary measure the government has taken to restrict asylum seekers has been the issuance of the 2A5 conditional release visas (CRV). These temporary visas, which the Ministry of the Interior began to issue to Sudanese and Eritreans at the end of 2008 when Israel began to take full responsibility over the RSD process, allow for a renewable three-month stay in the state, pending their eventual completion of the RSD process (Furst-Nichols and Jacobsen, 2011). The renewable visiting provision, explicitly not a residency provision, of the CRV allows the government to make clear that permit holders' stays in Israel are temporary and that their current status does not secure them a future in the state, while still providing them the minimal adequate protection required by international law. As the CRV is not a residency visa, holders of the CRV do not have access to government services and are "not entitled to social security benefits and to non-emergency medical treatment to which residents have access" (Ziegler, 2015). Holders of the CRV are legally treated as visitors, the important distinction between visiting and residency providing grounds for the government not to provide them with anything more than essential services and keeping these asylum seekers on the edge of society.

As the number of asylum seekers continued to rise, the government in 2010 added to the CRV an employment ban, making clear that the hiring of visa holders is illegal and that any employers who hire visa holders would be subject to serious fines (Yaron et al., 2013). This working ban further alienated asylum seekers, keeping them from making a living that would

allow them to view themselves as part of the Israeli public. After a number of petitions protesting this ban, the Supreme Court issued a ruling that “prohibited the enforcement of the ban pending solutions that provide asylum-seekers with the means to meet their material needs,” while the state simultaneously “increased the criminalization of asylum-seeker employment by augmenting offending employers’ legal penalties and requiring municipalities to desist from employing asylum-seekers” (Duman, 2014). This apparent contradiction again demonstrates the duality of motivations for policy toward asylum seekers, as the Supreme Court attempts to provide adequate aid to asylum seekers while the Knesset works to keep them from entrenching them into Israeli society. Though legally barred from working, most asylum seekers find some sort of employment, usually in service industries, working low-skilled jobs for minimum wage” (Sabar and Tsurkov, 2015). Despite the state’s motives, “the state is well aware that an enforced [employment] prohibition would leave ‘infiltrators’ in abject poverty and would exacerbate their predicament, as well as that of their Israeli neighbours” (Ziegler, 2015). Doing so would mean that the government’s hand would be forced to care for the tens of thousands of asylum seekers who hold a CRV, and therefore the state implicitly tolerates their work, allowing them to continue to exist in a grey area as the policies and their implementation, or lack thereof, culture an “ordered disorder” (Paz, 2011). By nurturing this “ordered disorder,” the Israeli government has continually managed to keep potential asylum seekers living in the margins of society.

As part of the “ordered disorder,” the government has been able to accomplish a number of its goals in keeping out asylum seekers. The state’s approach to employment has served to “entrench a perception of CRV holders as ‘labour infiltrators’ rather than as persons in need of protection, by creating a false dichotomy between, on the one hand, migrants who seek work, and on the other hand genuine refugees who seek protection rather than work” (Ziegler, 2015).

By framing asylum seekers as economic migrants, the government attempts to delegitimize their asylum claims, citing employment efforts as their primary motive for coming to the state.

Additionally, by barring asylum seekers from employment and social services, the government hopes to cut back on the rising trend of asylum seekers, as “providing any support [...] would encourage asylum seekers to remain, thereby engendering additional flows” (Duman, 2014). This strategy, as shown, not only serves to attempt to lessen the number of asylum seekers that Israel must manage, but also creates an unclear legal status that makes it difficult for asylum seekers to establish themselves in the state.

In addition to the CRV, the government has attempted to implement geographic restrictions on the approximately 40,000 CRV holders in Israel (Sabar and Tsurkov, 2015). As most asylum seekers headed to Tel Aviv for the best employment opportunities, over-crowding and rising pressures from the asylum community led the government to enact the Hadera-Gedera Provision, named for the two cities that delineated a “no-go area” for asylum seekers (Kritzman-Amir, 2012). This policy, intended to insulate Tel Aviv from the pressures of hosting so many asylum seekers, ended up creating greater pressure on smaller towns that were unable to manage asylum seekers or provide them access to NGOs and UNHCR offices that could provide them with help (Paz, 2011). After a petition to the Supreme Court and pressure from NGOs, government officials and local authorities, the Ministry of the Interior cancelled the policy, allowing asylum seekers into the greater Tel Aviv area. Despite the lift of geographic restrictions, a large portion of asylum seekers live in south Tel Aviv, putting economic stress on that section of the city (Ziegler, 2015). These stressors, fueled by the lack of government support, keep asylum seekers in impoverished conditions, “rendering them dependent on the localities in which they reside and on relief organizations,” which “inevitably take their toll on

local residents due to the health and safety hazards they cause and the social disruptions they provoke” (Duman, 2014). The tension this causes between asylum seekers and Israelis, a factor of keeping asylum seekers living in the margins of society, has caused anger toward the asylum community, making for a contentious debate over what to do with them.

Societal Reactions to Refugees

As the number of asylum seekers continued to increase in Israel, tensions began to build between the growing asylum community and Israelis, the more common exposure to asylum seekers leading many Israelis to become angered by the disturbances associated with them and to mobilize against their presence. While the trend of rising asylum seekers began in 2006, mobilization against asylum seekers only began in 2009 as the government worked to implement policies barring asylum seekers from society. This mobilization, often in the form of public protests, initially consisted of “primarily local, sporadic, and spontaneous events, lacking clear leadership and organizational infrastructure” (Duman, 2014). The protests were to fight against the threats posed by asylum seekers, whether it be in regard to the economic burden they cause, employment issues associated with their presence, or the demographic concerns of hosting such a large number of asylum seekers. As the trend continued to grow, protests became larger and more organized, with the first large-scale protest, dubbed “Stop Neighborhood Fear—Send the Infiltrators Home,” taking place in Tel Aviv at the end of 2010 (Duman, 2014). Protests such as this one have attracted many citizens who feel threatened by the asylum seekers, whom they view as ‘infiltrators’, and as more have come into the country, the protests have become more frequent and grown in size. Not only are these protests growing, but a 2012 public opinion survey conducted by the Israel Democracy Institute revealed that over half of Israeli Jews agree

with the statement that “Africans are a cancer” in Israel, and that 83 percent of Israeli Jews support anti-African demonstrations and protests (Smith and Sheen, 2014). Many of these protests have attracted politicians seeking to spread ‘anti-infiltrator’ messages and to mobilize their constituents. At one such demonstration in south Tel Aviv, Member of Knesset Michael Ben-Ari declared, “[f]or three years women have not been able to go to the market without having their purses stolen; girls can’t play; young men cannot find jobs’, leading attendees in chants ‘Sudanese to Sudan!'” (Ziegler, 2015). This sort of attribution to asylum seekers has become commonplace, and large protests such as this occur with growing frequency, with fifteen separate large protests taking place in 2012 alone (Duman, 2014). The growth of these protests speaks to the fears that many, though not all, Israelis hold toward the growing number of asylum seekers and to the frustration of many when it appears to the public that the government is doing little to help.

Mobilization against asylum seekers has not only been limited to protests, however, and in 2010 a group of Tel Aviv rabbis issued a proclamation forbidding Jews to rent apartments to asylum seekers, a ban that was taken up by rabbis across the country (Smith and Sheen, 2014). Similarly, in 2010 the city of Eilat, pressured by the demands of residents, barred children of asylum seekers from schools, and though the Supreme Court struck down the law in 2012, the resentment toward asylum seekers continues (Duman, 2014). While the Israeli government has been pursuing policies to curb the flow of asylum seekers into Israel, these policies are not easily felt by many citizens, who feel like the government is not doing enough, leading local groups and governments to enact regulations like the ones described. This is an inherent output of the “ordered disorder” nature of the Israeli government’s response to asylum seekers, as by creating a loosely defined system, concrete policies that citizens can understand and see the effects of are

absent, and anger and frustration toward asylum seekers only increases when the public perceives the government to not be doing enough to ameliorate their concerns (Duman, 2014). The building anger and frustration has also led to violence toward the asylum community, and in one instance after a protest in 2012, demonstrators “raged through the streets of south Tel Aviv, assailed persons who looked like ‘infiltrators’ including some Jewish-Israeli citizens of Ethiopian decent, set bins on fire, and threw bricks and bottles at businesses” (Ziegler, 2015). This sort of xenophobic violence is a boiling over of the fear and anger many Israelis feel toward asylum seekers, whose concerns are based on a number of perceived threats from the new and growing community of foreigners in their midst. The roots of these concerns about, as well as a more welcoming notion toward, asylum seekers will be discussed in the following section, which will describe a number of factors that influence how the Israeli public perceives refugees.

III. ROOTS OF ISRAEL’S PERCEPTION OF REFUGEES

Hopeful refugees arriving in Israel face a particularly unique challenge of establishing themselves within society due to cultural characteristics specific to the state of Israel. Their already harrowing journey is further complicated upon arrival in Israel by a nationalistic ethos that can at times be averse to those perceived as outsiders, or as an “other.” This, coupled with lingering existential concerns perpetuated by regional conflict and politics, has led some Israeli Jews to wrestle with the acceptance of those seeking asylum, while many have been vocal opponents of the state harboring refugees. Since the rise in incoming asylum seekers, the term ‘infiltrator’ has been commonly used to describe those entering Israel irregularly in hopes of finding lasting refuge. As one academic noted, “the ongoing primacy of this term demonstrates ‘the success of agents within the (governmental) institutions to inject this discourse and create a

sort of panic' characterised by a 'takeaway feeling – they will come here, take what we have, and change this place'" (Paz, 2011). While the word 'infiltrator' is absolutely a tool used to influence public opinion, the term intentionally elicits a primal fear that outsiders are on the cusp of seriously harming Israeli society. This fear is perpetuated by a number of factors, namely concerns over the demographic makeup of a state that is still cementing its national identity, the continuing conflict with the Palestinian people, and security concerns in a region plagued by perpetual violence. In addition to factors that cause negative perceptions of refugees, an important element of the Israeli public's attitude toward refugees is a prevalent and lasting memory of the Holocaust as a defining attribute of the state of Israel (as well as of the Jewish people). This unique combination of elements creates a complex reaction from the people of Israel to refugees arriving at Israel's doorstep. This section will address how each of these factors inform the asylum debate in Israel and influence public opinion of refugees.

Demographics of a Jewish State

Israel, as a Jewish state, is uniquely concerned with the demographic makeup of its population. This concern is one of the main factors that have led Israelis to oppose Africans coming into the country, even if they may be refugees. "Israel is proud of its heritage as a refuge that took in hundreds of thousands of Jews who survived the Nazi genocide," writes journalist Ben Hubbard. "But it's conflicted over refugees from elsewhere. Israel's many wars with its Arab neighbours have left it distrustful of outsiders, while some fear accepting non-Jews could threaten the state's Jewish character. As a result, it is struggling with how to handle the non-Jewish newcomers" (Hubbard, 2009). Hubbard touches on a nerve that is often present in Israeli political discourse: the worry that increasing numbers of non-Jews in Israel could alter the nature

of the state as a Jewish entity. As a Jewish state, it is a widely held position that a strong Jewish majority is an essential part of the Jewish character of the state. Should the non-Jewish population of the state grow, it could present a challenge to the state's Jewish character, as, if a large portion of the state is not Jewish, it would send a message that the state is not specifically Jewish because the label would not represent such a large portion of the country. This anxiety has long been apparent when discussing the growing Arab minority within the state, and it has likewise been turned toward African migrants as their numbers have sharply risen in recent years. Fears regarding demographic changes, therefore, have played into the discourse of if and how to help African refugees, and those who are most concerned over the demographic issue argue for keeping African 'infiltrators' out of the country.

Rhetoric highlighting the fear over a demographic shifting has been commonly employed to argue against allowing refugees to remain in Israel. This demographic argument can become a political tool, and government officials use it to make claims in line with their political ideologies. The spokesman of the Ministry of the Interior, speaking on behalf of Interior Minister Eli Yishai, argued, “There is a Jewish state, and the state cannot absorb [Africans]. The possibility that they remain here means turning Israel into a state of all its citizens, something that contravenes the Declaration of Independence and everything that was behind the establishment of the state” (Lynfield, 2012). The spokesman highlights the very core of the issue, explaining in his boss' view that Israel was founded as a Jewish state, and that an influx of Africans in the state threaten the very fibers of the state's existence. By doing so, he portrays the view that these Africans, rather than being in need of asylum from dangerous countries of origin, actually represent a danger to Israel that must be guarded against.

There is a danger, though, in portraying Africans arriving in Israel as a demographic threat, as it turns the focus from the desperate conditions in which these migrants find themselves to how their presence may affect Israelis. It is hard not to feel sympathy for refugees fleeing from oppressive homes, particularly when Israelis can identify with their own history of persecution. However, portraying these refugees as a potential demographic threat can overshadow their predicament and turn the focus from their dire situation to the consequences of providing them with asylum. By doing so, it has turned the needs of the refugees against the needs of the Israeli public, and this framing makes it appear a zero sum game. In such a framing, the issue becomes us verse them, which can lead to more heated rhetoric, such as when Prime Minister Olmert referred to asylum seekers as a “tsunami that must be stopped at any price” (Kritzman-Amir and Berman, 2011). This type of portrayal is harmful because it presents the plight of refugees as an inhuman force of nature that could destroy Israeli society. It is not a far step from these terms to move toward even more harmful rhetoric. As Zina Smith and David Sheen write, “[Israelis’] identity is contrasted to that of black Africans who are seen as a threat. This has gone far beyond the general discourse of ‘criminalising the migrant’, it’s about [...] the fear of inter-racial relations, the fear that ‘they’ will out populate the Jewish people” (2014). Smith and Sheen articulate how positioning Africans as an “other,” paired with concerns of the Jewish nature of the state, can create fear of and hatred toward refugees. As much of the discourse has turned to the demographic concerns raised by taking in refugees, the public has become wary and less welcoming toward those who are escaping to Israel as a place of refuge.

The Palestinian Question

Another important concern to the Israeli public when it comes to accepting refugees is the unsettled status of the Palestinian people. Though defined as a refugee population by the UN, Israel does not recognize Palestinians as legitimate refugees. “Israel interprets the Refugee Convention as excluding Palestinians from the category of refugees, since, as potential benefactors of the assistance of the UN Relief and Works Agency, they are ‘persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance’” (Kritzman-Amir and Berman, 2011). Because the Israeli government makes the distinction that, because Palestinians receive aid from UNRWA and not UNHCR, they do not qualify as refugees under international norms, Israel has been able to justify their narrative of Palestinian history.

Despite Israel’s ability to preclude Palestinians’ status as refugees within their national terms, when it comes to other refugee populations, “the state fears that recognizing African asylum seekers as refugees will open the Pandora’s Box of Palestinian refugees’ claims for territory, compensation and most importantly, right of return” (Paz, 2011). While the matters of African and Palestinian refugees are not necessarily connected in a legal sense, “the primordial/contemporary presence of the Palestinian refugees shapes immigration [and asylum] debate in Israel” (Paz, 2011). Admitting asylum seekers from Eritrea and Sudan runs the risk of setting a precedent that could then possibly be applied to the Palestinians. Though this may appear to be a tenuous connection, the Israeli government invariably takes into consideration the Palestinian question when it comes to matters of national interest. The existence of even a possibility that more liberal action toward African refugees could open the door for Palestinians gives Israelis serious pause. Therefore, the Israeli government has been reluctant in its

admittance of potential refugees for fear that doing so *en masse* would force its hand to define Palestinians as refugees, dramatically changing the status quo of the Israeli-Palestinian conflict.

Security Concerns

In regards to changing the status quo in Israel, refugees have the potential to significantly alter the existing security balance. One of the largest concerns is that Africans coming into the country could potentially be terrorists. Due to its conflict with the Palestinian people, Israel faces terrorist threats on a regular basis and society is constantly vigilant for the potential of new attacks. Because many of the asylum seekers coming into the country are from Sudan, a country listed as an enemy state by the government, there is a worry that Sudanese nationals may have nefarious purposes for their presence in Israel. Miri Regev, a Member of Knesset from the Likud Party, was quoted as saying, “we will not let them [Africans] thwart our attempt to protect ourselves, our children, our women and our work places, we will continue to protest every day until the last of the Sudanese infiltrators returns to his country” (Smith and Sheen, 2014). In her speech, Regev addresses the concerns of many Israelis, which is that these foreigners present a potential physical threat to Israelis. While many Israelis hold this fear, it is largely unfounded, and more based on a fear of an “other” that Africans represent. To date, there has only been one instance of an attack in Israel committed by a Sudanese citizen, when in February 2016 a Sudanese man stabbed an Israeli soldier in the city of Ashkelon (Cohen, 2016). While the attack should be taken seriously, this was an isolated instance, which is apparent as it was the singular episode in a decade of Sudanese citizens’ presence in Israel. The attack was also condemned by Mutasim Ali, a Sudanese leader of the asylum seeker community, who declared, ““this is very serious if it's someone from our community. We roundly condemn it. It's not representative,”” he

said, adding, “our community will never constitute a danger to the State of Israel or to Israelis” (Cohen, 2016). Despite the almost nonexistence of violence perpetuated by asylum seekers, the potential that they still may pose a threat is enough to leave much of Israeli society concerned. Because concrete instances that would cause security concerns are almost nonexistent, some argue, “security concerns were invoked as a means of undermining the legitimacy of their claims” (Duman, 2014). While it may be a possible claim that some politicians have been overestimating the threat for political purposes, the public is regardless concerned about security related to the Africans, and this concern has played a large part in how asylum seekers have been received in Israel.

From a broader perspective, another aspect of Israel’s security concerns are borders, which due to the conflict with the Palestinians, are disputed with Israel’s neighbors. Israel, along with managing Sudanese and Eritrean asylum seekers, is on the border of the world’s largest refugee crisis at this time, the civil war and violence that is erupting in Syria. While Israel has been unsuccessful in keeping Eritrean and Sudanese asylum seekers from entering into the country, it has been able to keep Syrian refugees from making their way into the state. In his defense of rejecting Syrian refugees, Prime Minister Netanyahu argued that Israel is “a very small country that lacks demographic and geographic depth” to handle Syrian refugees (Swissa, 2015). In this instance, Netanyahu uses the same demographic argument that is used against Sudanese and Eritrean asylum seekers. However, Israel’s actions toward Syrian refugees is also significant because of the implications that certain decisions would have for the Sudanese, Eritrean and Palestinian communities.

Israel’s border with Syria is contested, with the international community recognizing the Golan Heights as part of Syria, while Israel contends that it legally annexed the land in 1981.

Therefore, under international law, “Syrians crossing the armistice line into this region would technically be internally displaced persons and not refugees as they are not crossing an international border” (Plotner, 2014). Israel is therefore placed in an interesting dilemma, where if Israel asserts its control over the Golan Heights, it would receive immense pressure under its international commitments to provide aid to Syrian refugees coming into the region. If Israel were to consider the Golan as part of Syria, on the other hand, it could cede any responsibility for the Syrians, as they would technically be IDPs (Plotner, 2014). Israel’s actions on this could have a number of different ramifications, whether forcing Israel into maintaining a consistent policy by holding Palestinians and Africans to the same refugee standard as Syrians, or if Israel should take a step back from its control over the Golan, creating a precedent that could be applied to the disputed West Bank.

The nexus of Israel’s approach to Africans, Syrians and Palestinians, plays an important role in security considerations because the handling of one informs how the rest are handled, which could result in further contention over borders as well as who would be allowed to seek asylum in the state. In light of the interconnectedness of these issues, “Netanyahu’s recent refusal to accept Syrian refugees was a [move to] graft security concerns onto humanitarian ones by labeling Syrian refugees as infiltrators before they even entered the country” (Swissa, 2015). By doing so, he also effectively shut down the discussion of Palestinian refugees as he could use security rhetoric to assert a consistent policy linking each population. The discussion of this nexus in a security framework is an extremely salient one, as “security in Israel cannot be dismissed only as a social construct, but should rather be seen as a pivotal ‘societal pillar’ that has psychological and social elements, based in Israel’s geopolitical reality” (Paz, 2011). Security is always around the forefront of the Israeli public’s consciousness, and relating refugee

issues to security is an effective way to highlight Israel's geopolitical reality that accepting any of these populations into the state could present a number of threats to Israeli society.

Collective Memory of the Holocaust

Though there are quite a number of unique factors that create an Israeli opinion averse to allowing asylum seekers into the country, the memory of the Holocaust plays an important role in framing the debate in a more refugee-friendly way, reminding Israelis of their personal connection to refugees. The Holocaust is one of the most significant aspects of Israel's collective identity and is ingrained in the very fibers that make up the state of Israel. The state was founded in the wake of World War II, when six million Jews had been slaughtered and many more left as refugees. Many of these European Jewish refugees came to Israel, a state created to be a beacon of hope and a safe place where they could feel secure and contribute to the building of a nation of their own. The terrors of the Holocaust are never forgotten by the Jews of Israel, and it holds a distinct place in the national memory. In her essay, *Darfur Through a Shoah Lens*, Dr. Sarah Willen refers to this memory by citing Dominick LaCapra (2001), referring to it as a “founding trauma” for Jewish Israel: a collective memory of mass trauma that can be reactivated when a group feels threatened” (2010). This founding trauma of the Holocaust informs how Jewish Israelis view the world, and when Israelis find a refugee crisis on their doorstep, it affects how they respond to this growing situation.

Since Israel began seeing a massive influx of refugees in 2006, rhetorical comparisons to the Holocaust have been invoked to arouse sympathy in the public and encourage action on the part of the Israeli government. Many who wish for the government to provide support to incoming refugees appeal to a sense of morality imbued in the Jewish community, particularly

when concerning the Holocaust. Yad Vashem (The Israeli Holocaust Museum) chairman Avner Shalev stresses the importance of solidarity between Jews and other refugee populations, stating, “as Jews, who have the memory of the Holocaust embedded within us, we cannot stand by as refugees from genocide in Darfur are knocking on our doors. The memory of the past, and the Jewish values that underpin our existence, command us to humanitarian solidarity with the persecuted” (Uchitelle-Pierce, 2007). Shalev, by highlighting the connection of suffering between disparate populations, employs Jewish Israelis’ own sense of identity to advocate for helping those refugees coming to Israel.

Similarly, memory of the Holocaust is utilized to criticize government policies toward refugees that have led to mass detentions. Many advocates for the rights of refugees assert that “stints in jail and the scant support asylum seekers find in Israel fail to honour the memory of Jewish persecution through the ages” (Hubbard, 2009). Here, the memory of the atrocities faced by the Jewish people is not the only rhetorical tool used. Along with arguing that, because Jews have faced persecution so should Jews help others facing persecution, Hubbard also argues that it would degrade the Jewish past to not act forward on behalf of our ancestors who have known such victimization. In addition, Holocaust discourse in regards to the asylum problem “creates a degree of accommodating space for asylum seekers vis-à-vis Israel’s commitment to human rights” (Paz, 2011). Because of its peoples’ troubled history, Israel maintains a serious commitment to human rights, the influence of which can have an important impact on how the public views, and the government acts toward, asylum seekers. The role of Israel’s Holocaust memory fosters an opening where Israelis acknowledge the need to help refugees, for they were once refugees who sought asylum.

IV. CONCLUSIONS

While Israel’s connection with refugees is as old as the state itself, it is only in recent years that the matter of refugees has become a widely salient issue to the public. The massive influx of asylum seekers that began in 2006 has “brought into sharp relief Israel’s refusal to develop a coherent asylum policy and its failure to comply with international law, [...] result[ing] in decisions which are ineffective and are overturned in court” (Yaron et al., 2013). Israeli society commonly views African asylum seekers as an “other,” as a group that is so distinctly different from that which makes up the nation-state that a large portion of the public is averse to asylum seekers coming to Israel as a place of refuge. As such, the state has manufactured an asylum regime characterized as an “ordered disorder,” which uses a minimalistic policy regime to create a space in which asylum in Israel is purposefully provisional. As this asylum regime has adapted to meet growing needs, it has become clear, as Israeli Supreme Court Justice Esther Hayut stated in 2013, that, ““it is not impertinent to reiterate...that as the ‘temporary’ policy of non-return adopted by the state toward some of these infiltrators becomes over the years less and less temporary, the need arises to fill it with normative content”” (Ziegler, 2015). Hauyt, whose comments are controversial, points to the unsustainability of an asylum regime that does not provide a coherent or stable method for managing the influx of African asylum seekers in the state.

While the current system is clearly not sustainable, as evidenced by the constant modification of policies and the insufficient services afforded to asylum seekers, it also seems apparent that this is not an unintended result. The policies pursued by the Israeli government, as well as the rhetoric used to promote such policies, represent “exclusionist measures which have constituted Israel’s patchy policy responses [that] highlight its strategy to cement asylum claims

as unsustainable, in the hope the surge of refugees will one day dry up” (Paz, 2011). As described, with asylum seekers so unwanted in Israel, the asylum regime focuses on minimizing the number of asylum seekers in Israel while doing as little possible to meet necessary international obligations.

While this strategy is currently working for Israel, the state must work toward solutions that protect its national interests as well as providing adequate and meaningful support to asylum seekers. In pursuit of this, “despite the lack of a comprehensive infrastructure for responsibility sharing, the courts can play a significant role in applying responsibility-sharing considerations as they evaluate the legality of the different policies that comprise the Israeli asylum system” (Kritzman-Amir and Berman, 2011). Looking forward, this suggests that the courts can serve a critical function of ensuring that a balance between state interests and international obligations is struck. The courts, which have already had an active role in amending the asylum regime and related policies, can act to overturn laws that do not adhere to Israel’s international commitments while maintaining laws that protect the state’s national interests. As the current political landscape of Israel does not appear to be willing to develop a more liberal asylum regime, this may be the most practical way of keeping Israel within the scope of international law while the government seeks to protect state interest. If the political landscape significantly shifts in the future, “Israel may develop legislation which transforms the ‘kinship of genocide’ into a more inclusionist ‘kinship of refugees’ which will respond to Israel’s unique ethnonational character and past legacies while accommodating others’ unique circumstances and history” (Paz, 2011). While this may seem hopeful given state actions over the last decade, it is imperative that Israel eventually construct an asylum regime that protects the state’s interests while concurrently

providing adequate support and aid to refugees. This balance may not be realized in the near future, but steps should be taken to move Israel in this direction.

Israel's refugee situation also bears important lessons that can be extrapolated to apply to a global context. The world is changing at an unprecedented rate, and "policies in Israel, as elsewhere in Europe and around the Mediterranean, have failed to grasp the nature and impact of globalization reflected in the expansion in the number and movement of migrants and refugees transiting the world" (Yaron et al., 2013). Concepts such as state sovereignty, citizenship, and mobility of persons are being reevaluated as globalization progresses and the world continues to move into a post-World War era further transformed by the cessation of the Cold War. These concepts are critical to evaluating refugee crises and generating solutions to crises, as they are the basis for global norms regarding the categorization of peoples and the role of the state.

Global migration trends are shifting as technology continues to advance and conflicts and disasters continue to spur the movement of peoples. Globalization and the expanding number of worldwide migrants make it increasingly harder to delineate between types of migrants. As such, "the asylum-migration nexus has a fundamental role in shaping debates over the 'correct' or 'accurate' definition of the asylum seekers – a category which cannot be distinctively conceptualised from economic migrants" (Paz, 2011). Causes of migration are growing, and rationales for migrating are inevitably being conflated as increasingly complex motives are considered. In Israel, this has manifested in a discourse that largely prefers to label asylum seekers as infiltrators or economic migrants, while the actual identification of persons is much more complicated than such labels. Determining why a person has become a migrant has become much more complex issue as a confluences of factors motivate individuals, and distinctly delineated nomenclature seems to no longer provide adequate information about migrants.

Following this, it is apparent that international and national asylum regimes must adapt to an increasingly globalized world.

As globalization continues to progress, “it is morally essential that the world’s nations share responsibility for dealing with [the refugee] issue” (Kritzman-Amir and Berman, 2011). People are no longer as geographically restricted as they once were, and what were once local or regional problems have become global. States geographically distant from regional conflicts are becoming entangled in refugee crises as these refugees, and states that become hosts to them, turn to global actors to help ameliorate the situations. In Israel, “the presence of the migrant/refugee brings into sharp relief the limitations and failures of unilateral approaches to immigration/asylum policy just as it underlines the need for multilateral policy initiatives” (Yaron et al., 2013). A globalizing world calls for globalized solutions to problems that are no longer geographically restricted, such as that of refugees. States can better address refugee issues should they work together, both in stemming the causes of such issues and in developing sufficient strategies to aid refugees.

It is also important to note that, despite Israel’s unique geopolitical situation, Israel is not alone in the manner in which it approaches the handling of asylum seekers. While Israel’s rationales for its policies to keep out asylum seekers may be distinct to the state, “the exclusionary logic [in Israel] is not radically different from the spectrum of measures used by other countries that limit the entrance of unwanted individuals to their territory” (Paz, 2011). Countries across the globe, particularly in Europe, are concurrently facing an unwanted influx of asylum seekers and are attempting to implement measures to lessen these numbers in order to preserve their own interests. Refugees inherently place an unwanted burden on the host country, and it is a responsibility shared by the global community to bear the burden of caring for peoples

forsaken by their home states. While it is fair to criticize Israel's inadequate asylum regime, it must be done so in the context that any state is typically averse to accepting refugees, leading states to attempt to lessen their share of the burden. The case of Israel highlights the grounds on which refugees are unwanted, and can shed light onto how individual states and the global community can better address refugee crises.

While this paper provides an in depth discussion and analysis of Israel's refugee situation, it is not a comprehensive exploration of the issue. Future research could further delve into the roots of Israel's perception of refugees to better understand how Jewish history and identity affect Israel's relationship with refugees. Additional research may investigate the coupling of Israel's immigration and asylum regimes, discussing the validity of the pairing as a means of understanding each regime. As mentioned above, the changing concepts of sovereignty, citizenship and mobility of persons can be studied to better understand how refugee issues might be handled in the future. These concepts have vast implications should the norms surrounding them change, and studying their application to asylum regimes can build an understanding of how norms are changing and what effects these changes may have. An interesting issue that this paper did not cover in depth is the possible racial dimension of anti-asylum sentiments. Racism could contribute to the Israeli public's aversion to African asylum seekers, in addition to a religious bias, and is a factor not thoroughly explored in this paper. Furthermore, this paper did not discuss the lives of the extremely few refugees who are recognized by Israel. Their integration into Israeli society could be studied to provide further elucidation on another feature of the asylum debate. Another strand of research could assess nongovernmental organizations that work to meet Israel's international commitments to refugees, such as IsraAid, a humanitarian organization that provides assistance after disasters and is currently conducting extensive work

with Syrian refugees. With this, future research could study the role of Israeli NGOs that work to provide support to asylum seekers. These varying paths of inquiry can help to better shed light on the Israeli asylum regime and, in turn, on the international asylum regime. Though this paper is not exhaustive, it has attempted to provide a constructive analysis of the Israeli asylum regime and its roots in order to contribute to and improve the understanding of Israel's relationship with refugees.

References

- Cohen, Gili. 2016. "Shin Bet: Recent Stabbing by Sudanese National Was ISIS-Inspired Attack." *HaAretz*, Feb 25. <http://www.haaretz.com/israel-news/1.705392>
- Duman, Yoav. 2014. "Infiltrators Go Home! Explaining Xenophobic Mobilization Against Asylum Seekers in Israel." *Journal of International Migration and Integration* 16, (4): 1231-1254.
<http://search.proquest.com.libezproxy2.syr.edu/docview/1724872517?accountid=14214>
- Friedman, Ron. 2010. "World Refugee Day Goes Unmarked in Israel." *The Jerusalem Post*, June 21. <http://www.jpost.com/Israel/Article.aspx?id=179029>
- Furst-Nichols, Rebecca and Karen Jacobsen. 2011. "African Refugees in Israel." *Forced Migration Review* (37): 55-56.
<http://search.proquest.com.libezproxy2.syr.edu/docview/869631563?accountid=14214>
- Gammeltoft-Hansen, Thomas. 2014. "International Refugee Law and Refugee Policy: The Case of Deterrence Policies." *Journal of Refugee Studies* 27 (4): 574-595.
<http://jrs.oxfordjournals.org.libezproxy2.syr.edu/content/27/4/574.full.pdf+html>
- Giladi, Rotem. 2015. "A 'Historical Commitment'? Identity and Ideology in Israel's Attitude to the Refugee Convention 1951-4." *The International History Review* 37 (4): 745-767.
<http://dx.doi.org/10.1080/07075332.2014.946949>
- Goodwin-Gill, Guy. 2008. "Convention Relating to the Status of Refugees; Protocol Relating to the Status of Refugees." *United Nations Audiovisual Library of International Law*.
<http://legal.un.org/avl/ha/prsr/prsr.html>

Goodwin-Gill, Guy and Kathleen Newland. "Forced Migration and International Law." In *Migration and International Legal Norms*, edited by T. Alexander Aleinikoff and Vincent Chetail, 123-36. The Hague : T.M.C. Asser Press, 2003.

Hotline. 2016. *Hotline for Refugees and Migrants*. Refugees. <http://hotline.org.il/en/refugees-and-asylum-seekers-en/>

Hubbard, Ben. 2009. "As Refugees Increase, Israel Struggles between Holocaust Memory and Reluctance to Open Doors." *The Canadian Press*, Aug 12. <http://search.proquest.com/docview/360091128?accountid=14214>.

Jewish Virtual Library. 2016. *Immigration to Israel: Aliyah Bet*. http://www.jewishvirtuallibrary.org/jsource/Immigration/Aliyah_during_war.html

Kritzman-Amir, Tally. 2012. "Refugees and Asylum Seekers in the State of Israel." *Israel Journal of Foreign Affairs* 6 (3): 97-111. <http://www.clb.ac.il/AsylumSystem/Intro4.pdf>

Kritzman-Amir, Tally and Yonatan Berman. 2011. "Responsibility Sharing and the Rights of Refugees: The Case of Israel." *The George Washington International Law Review* 41 (3): 619-649. <http://search.proquest.com/docview/853643669?accountid=14214>

Landau, Loren B. and Roni Amit. 2014. "Wither Policy? Southern African Perspectives on Understanding Law, 'Refugee' Policy and Protection." *Journal of Refugee Studies* 27 (4): 534-552. doi:<http://dx.doi.org/10.1093/jrs/feu005>. <http://jrs.oxfordjournals.org.libezproxy2.syr.edu/content/27/4/534.full.pdf+html>

Lynfield, Ben. 2012. "Seeking Asylum, Sudanese Instead Face Israeli Prison." *The Forward*, Oct 26, 1-1, 5. <http://forward.com/news/israel/164511/seeking-asylum-sudanese-face-israeli-prison/>

Milner, James. 2014. "Introduction: Understanding Global Refugee Policy." *Journal of Refugee Studies* 27 (4): 477-494.

<http://jrs.oxfordjournals.org.libezproxy2.syr.edu/content/27/4/477.full.pdf+html>

Paz, Yonathan. 2011. "Ordered Disorder: African Asylum Seekers in Israel and Discursive Challenges to an Emerging Refugee Regime." *UNHCR Policy Development and Evaluation Service*. <http://www.unhcr.org/4d7a26ba9.html>

Peace Index. 2012. *Summary of Findings – May*.

<http://www.peaceindex.org/indexMonthEng.aspx?num=242>

People's Council of Israel, The. 1948. *The Declaration of the Establishment of the State of Israel*. https://www.knesset.gov.il/docs/eng/megilat_eng.htm

Plotner, Crystal. 2014. "If Israel Accepted Syrian Refugees and IDPs in the Golan Heights." *Forced Migration Review* (47): 32-34.

<http://search.proquest.com/docview/1561632847?accountid=14214>

Sabar, Galia and Elizabeth Tsurkov. 2015. "Israel's Policies toward Asylum-Seekers: 2002-2014." *Istituto Affari Internazionali* 15 (20).

<http://www.osce.org/networks/165436?download=true>

Simpson, Gerry. 2014. "Make Their Lives Miserable: Israel's Coercion of Eritrean and Sudanese Asylum Seekers to Leave Israel." *Human Rights Watch*.

<https://www.hrw.org/report/2014/09/09/make-their-lives-miserable/israels-coercion-eritrean-and-sudanese-asylum-seekers>

Smith, Zina and David Sheen. 2014. "Taking the Mask Off: Asylum Seekers in Israel." *OpenDemocracy*, Feb 17.

<http://search.proquest.com/docview/1498455206?accountid=14214>

- Swissa, Talya Sultana. 2015. "Why Isn't Israel Accepting More Refugees?" *Al-Jazeera America*, Sep 22. <http://america.aljazeera.com/opinions/2015/9/why-isnt-israel-accepting-more-refugees.html>
- Uchitelle-Pierce, Ben. 2007. "Darfur Refugees Establish Bond of Suffering in Yad Vashem Visit." *The Jerusalem Post*, Mar 12. <http://www.jpost.com/Jewish-World/Jewish-News/Darfur-refugees-establish-bond-of-suffering-in-Yad-Vashem-visit>
- UN General Assembly. 1951. "Convention Relating to the Status of Refugees." *United Nations Treaty Series*, vol. 189, p. 137. <http://www.unhcr.org/3b66c2aa10.html>
- UN General Assembly. 1967. "Protocol Relating to the Status of Refugees." *United Nations Treaty Series*, vol. 606, p. 267. <http://www.unhcr.org/3b66c2aa10.html>
- UNHCR. 2011. "The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol." *United Nations High Commissioner for Refugees*. <http://www.unhcr.org/4ec262df9.html>
- UNHCR Statistical Online Population Database. 2016. *United Nations High Commissioner for Refugees*. www.unhcr.org/statistics/populationdatabase
- Van Esveld, Bill. 2008. "Sinai Perils: Risks to Migrants, Refugees, and Asylum Seekers in Egypt and Israel." *Human Rights Watch*.
<https://www.hrw.org/sites/default/files/reports/egypt1108webwcover.pdf>
- Willen, Sarah. 2010. "Darfur through a Shoah Lens: Sudanese Asylum Seekers, Unruly Biopolitical Dramas, and the Politics of Humanitarian Compassion in Israel." In B. J. Good ... [et al] (eds.), *A Reader in Medical Anthropology: Theoretical Trajectories, Emergent Realities* (pg. 505-521). West Sussex, UK: Wiley-Blackwell

Yaron, Hadas and Nurit Hashimshony-Yaffe and John Campbell. 2013. “‘Infiltrators’ or Refugees? An Analysis of Israel’s Policy Towards African Asylum-Seekers.” *International Migration* 51 (4): 144-157.

<http://eprints.soas.ac.uk/15955/1/Infiltrators%20or%20refugees%20-%20final.pdf>

Ziegler, Reuven. 2015. “No Asylum for ‘Infiltrators’: The Legal Predicament of Eritrean and Sudanese Nationals in Israel.” *Journal of Immigration, Asylum and Nationality Law* 29 (2): 172-191. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2632503

Knesset Legislation

Entry Into Israel Law, 1952.

Law of Return, 1950.

Prevention of Infiltration Law, 1954.