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On Politics

On Politics is a peer-reviewed academic journal published biannually by the University of Victoria Undergraduates of Political Science. It aims to encourage and facilitate undergraduate scholarship by providing students with a unique opportunity to have their work published in a formal medium. The editors of On Politics are drawn from the undergraduate student body and the journal publishes writing from a variety of theoretical perspectives, both intra- and interdisciplinary.

Submissions

Articles may be submitted by any undergraduate student at the University of Victoria. Submissions should be eight to fifteen pages in length and must have received a grade of A- or higher. Citations must consist of footnotes conforming to the Chicago Manual of Style. All submissions should be directed to the Editor in Chief at onpol@uvic.ca and will be subject to a double-blind review by the Journal's undergraduate editorial staff. For more information go to: https://www.facebook.com/onpoliticsuvic/.

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Letter from the Editors

This edition of *On Politics* examines the plights of vulnerable populations. Whether it be at the hands of government, shifting political values, the degradation of natural resources, or the increasingly relevant actions of non-state actors, politics seems to be moving at an ever-increasing pace.

In an attempt to slow down political discourse to a more reasonable speed, we have worked with our authors to bring you a nuanced look into this challenging climate. It is our pleasure to share with you the Winter 2018 edition of On Politics.

Additionally, we would like to thank all those who have helped produce this journal: our editors – Samuel McVicar, Xavière Schneider, and Malcolm Stewart – our faculty advisors – professors Marlea Clarke, Wilfrid Greaves, Daniel Westlake, and Carla Winston – as well as Jesse Green, the logistical manager of the journal. Our final act of gratitude must be to thank you, the reader, without whom this journal would be an effort of complete vanity. Given your support, we have the privilege of producing a journal that is part of a greater conversation, which we are extraordinarily humbled to be a part of.

Thank you for reading this copy of On Politics. We hope you enjoy!

Declan Roberts and Elena Trenholm
Co-Editors in Chief, *On Politics*

Co-Editors in Chief

Declan Roberts is a double-major student in Politics and English Literature focussing on the European Union and the Harlem Renaissance respectively. Declan has worked on successful campaigns for both federal and provincial elections and is currently working on a provincial campaign for universal access to free prescription birth control.

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Foreword

2018 is an interesting time to be studying political science. Indeed, the adage 'may you live in interesting times' seems ill-suited to reflect the scale and impact of the political transformations that are currently underway. The myriad of changes that are occurring across our politics are fractal in nature: they share similar features, dichotomies, and paradoxes across diverse issues, levels of analysis, and geographic and social contexts. Revolution is both global and local; governance is populists versus elites; demands for social change confront brittle status quos. Social choices that not long ago many experts thought settled have re-emerged, confronting citizens and scholars with disconcerting questions that risk undermining the common ground we stand upon. Do we belong to open societies or fearful communities? Are rights and security for all people, or just for some? If humans cannot cooperate, must we conflict? In many places, the hard-earned lessons of the twentieth century are subjects for debate in the twenty-first. Which works better, democracy or authoritarianism? Corruption or rule of law? Does free speech require that hate speech be tolerated? In the realm of metaphor, should we build walls to divide or bridges to unite? Since this fracturing of our shared political and social values is occurring at precisely the moment when numerous global challenges – including climate change, migration, transnational conflict, faltering confidence in the international economic order, and renewed risks of nuclear or great power war – demand a coordinated political response, does this moment in history call for hope, or despair?

The contributions to this issue of On Politics illustrate how relevant these and other questions are to the changing political contexts for local communities, sub-state and national governments, and the very structures of international relations. The first two articles focus on politics within Canada. Katherine Reifenberg's "The Starlight Tours: Sustaining Settler-Colonialism in Canada" opens the issue with an examination of police violence against Indigenous men in Saskatchewan, contributing to discussions of settler-colonialism and systemic racism that are directly relevant to current Canadian politics. In "Canadian Non-Citizen Rights", Chris J. Chan expands on related themes of social and political inclusion, and the differing protections afforded to individuals on the basis of their citizenship. Both pieces demonstrate that questions of politics, justice, and organized violence are as relevant in Canada as they are abroad.

The next three articles shift focus to the Middle East and examine distinct aspects of the political challenges faced over recent years by people in that region, while linking these experiences to phenomena elsewhere in the world. Cameron N. Fox's "Challenging Populist Parallels: The Arab Uprisings and the Western Populist Wave" compares the popular revolutions in the Middle East that began in 2011 with the rise, since then, of populist political movements in "Western" states in Europe and North America. Alexa Leigh Lewis discusses the enduring conflict between Israelis and Palestinians in "Politics of Violence in the Second Intifada". Engaging recent debates about suicide bombings as a tactic of non-state violence, she argues that the Intifada emerged from a context of oppressive social conditions and failed democratic processes between Israeli and Palestinian leaders. Next, in

"My Kingdom for a Water Source: The Security Implications of Climate Change in the Middle East," Nick Noble examines the critical role that water scarcity— caused by growing demand and global climate change— lays in exacerbating the region's political and governmental challenges. These articles highlight the continuing obstacles to peace and security in the Middle East by situating them in the context of global and transnational political phenomena that are not limited to any one region alone.

In the final article, "Torture and Terrorism: The Legal and Ethical Debates," Tao Browne assesses the normative debates surrounding the issues of torture as a counter-terrorism tactic. He focuses on American counter-terrorism practices in the so-called war on terror, and critically assesses them against the frameworks of international law and different theories of ethics. This issue of On Politics thus concludes appropriately with an examination of an issue—torture—that perhaps more than any other, symbolizes the tensions and contradictions experienced by liberal societies over the first two decades of the twenty-first century.

That the articles contained here were conceived, researched, written, edited, and compiled by undergraduate students is a testament to the abilities and efforts of politically aware and engaged young people. The young have always been involved in revolutionary moments, often leading periods of transformational social change. The active involvement of today's youth, who will disproportionately experience a future being shaped by the interaction of these complex social, economic, ecological, and political changes, is essential for the making of a more

stable, just, and sustainable world. When looking to the world our predecessors have built, there is too often cause for despair. When looking to the younger generations who will, soon enough, take the reins of power within our societies, there are plenty of reasons for hope. I, for one, thank these young authors for contributing their thoughts and intellectual labour to the project of examining the past and present in order to build a better future.

Dr. Wilfrid Greaves
Assistant Professor of Political Science,
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The Starlight Tours
Sustaining Settler-Colonialism in Canada

Katherine Reifenberg

Saskatoon's "Starlight Tours," despite their innocent name, are the repeated phenomena of police abandoning Indigenous men beyond city limits to die in freezing cold weather. Dumping of 'troublesome' Indigenous men serves to erase them from the urban colonial center ― in effect sustaining settler colonialism and heteropatriarchy. This paper will begin by defining and discussing the four main cases of Starlight Tours — three resulting in death — highlighting common issues and trends. Next it will situate the Starlight Tours in the context of stereotyping, racism, dehumanization, and white heteropatriarchy that all work to sustain settler colonialism. Finally, the discourse will turn to possible solutions for the Starlight Tours.

The Starlight Tours are a low-visibility activity that occurs "outside of the moral and legal norms of policing."[1] When police deem a person as troublesome and do not want to resolve the situation formally, they simply dump that person outside of their jurisdiction or across city lines. Amnesty International identified this practice of abandoning Indigenous people as a human rights concern for Canada. There have been only four well-known cases of dumping of Indigenous men since 1990: Neil Stonechild, Rodney Naistus, Lawrence Wegner, and Darrell Night.[2] Darrell Night was the only man to have survived a Starlight

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[1] William R. King and Thomas M. Dunn, "Dumping: Police-Initiated Transjurisdictional Transport of Troublesome Persons," *Police Quarterly* 7, no. 3 (2004): 341, doi: 10.1177/1098611102250586.
[2] Amnesty International, *Stolen Sisters: A Human Rights Response to Discrimination and Violence against Indigenous Women in Canada*

Tour, and his story has provided much needed insight into this phenomenon. Five more Indigenous men were found frozen to death outside of Saskatoon between 1990 and 2000, but because of the low-visibility of this practice, these deaths received extremely minimal attention and information on them is difficult to uncover. It remains unclear whether they were accidental or homicides.

The first known Starlight Tour case was that of Neil Stonechild from the Saulteaux First Nations. Seventeen-year-old Stonechild's frozen corpse was found on November 30, 1990 on the undeveloped outskirts of Saskatoon. The investigation into his death was closed quickly, with police theorizing that he had been trying to make his way to the Correctional Centre to turn himself in after running away from his community home. The police knew he had been drinking and thought that he had lost his way in the night, determining that there was no evidence of foul play. Yet many family members and friends of Stonechild took issue with this conclusion and argued that Stonechild was familiar with the legal system and knew he was too young to be admitted to the Correctional Centre. He would have gone back to his community home had he wanted to turn himself in and certainly would not have made the journey in the negative 28 degree Celsius night. Besides, they could not understand why he had not been wearing his favourite hat and was missing a shoe.[3]

At Neil Stonechild's funeral, his family and friends noted that he had cuts across his face, a broken nose, and marks on his wrists consistent with handcuffs. After the

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(London: Amnesty International Publications, 2004), https://www.amnesty.ca/sites/amnesty/files/amr200032004enstolensisters.pdf.

[3] David R. Wright, *Report of the Commission of Inquiry into matters relating to the Death of Neil Stonechild*, 2004, 37. http://www.qp.gov.sk.ca/Publications_Centre/Justice/Stonechild/Stonechild-FinalReport.pdf.

funeral, they tried to recover Neil's belongings from the police but were refused and years later learned that the belongings had been destroyed. They were suspicious about Neil's death from the outset — but concluded that pursuing the matter was pointless where the police would do nothing.

Stonechild's friend Jason Roy accompanied him the night of his disappearance and provided further evidence that this case should have been treated with suspicion. Roy said that he and Stonechild had gotten intoxicated and were wandering around a housing complex, ringing buzzers and searching for a friend who was babysitting. Roy and Stonechild were separated when Roy walked into a 7-Eleven convenience store to warm up. When Roy next saw Stonechild, he was in the back of a police cruiser yelling that the police were going to kill him. He had blood across his nose and his hands were cuffed behind his back. Roy says that, as the car drove away, "Neil was looking out the back of the window, just staring at me. He looked - he just looked scared."[4] When the case went to court years later, Crown counsel attempted to discredit Roy's account of the night by painting him as someone who had frequent trouble with alcohol abuse, involvement in criminal activity, and moved in and out of community homes.[5]

The inquiry paints a picture of Stonechild as an outgoing and friendly young man, with a passion for wrestling. It also indicates that around the age of fifteen he began to abuse alcohol and started to become involved in petty crime, such as breaking and entering. Yet David R. Wright, the author of the Stonechild Inquiry, notes that it was believed Stonechild had a bright future ahead of him

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[4] Wright, *Report of the Commission of Inquiry into matters relating to the Death of Neil Stonechild*, 37.
[5] Ibid.

provided that supportive family members and counsellors surrounded him.[6]

After Darrell Night came forward with his own story of surviving a Starlight Tour in 2000 (to be discussed later in the essay) the RCMP were instructed to conduct a new investigation into Stonechild's death. In 2003, Saskatchewan's Minister of Justice established a commission of inquiry into Stonechild's death and the investigations conducted by the Saskatoon police and the RCMP.[7]

During the Stonechild Inquiry it was revealed that Constables Larry Hartwig and Bradley Senger were the police officers that picked up Stonechild on the night of his death. However, Hartwig and Senger both denied having Neil Stonechild in their custody on the night in question and stated they had no recollection of other key details regarding the case. Wright concludes that the two officers' assertions "are a deliberate deception designed to conceal [their] involvement".[8] It is also notable that Hartwig had three encounters with Stonechild prior to the night of November 24 and "that he had previously arrested Neil and that he had dealt with his mom."[9] Another officer described Hartwig, the senior officer of the pair, as "a very aggressive individual who suffered from 'small man syndrome.'"[10]

When the RCMP began its investigation into the Stonechild case, they found that the investigating officer, Sergeant Jarvis, had interviewed only eight potential witnesses and just two of those interviews were recorded. Jarvis did not attend the scene of death, he did not look at

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[6] Ibid.
[7] Wright, *Report of the Commission of Inquiry into matters relating to the Death of Neil Stonechild.*
[8] Ibid., 82.
[9] Ibid., 81.
[10] Ibid., 89.

photos or videos from the scene, did not look at Stonechild's body at the morgue or attend the autopsy, nor did he ever read the toxicology or autopsy reports. Wright notes, "the deficiencies in the investigation go beyond incompetence or neglect. They were inexcusable."[11] This point is agreed upon by many of the officers interviewed. When Constable Louttit, who was himself Indigenous, tried to pursue questionable points about the case, Jarvis was "argumentative and dismissive," and told Louttit to, "leave it alone," because the file was already closed.[12] Another officer who tried to pursue the case further, Sergeant Tarasoff, had an adopted son of Indigenous heritage and knew the Stonechild family well. He had also spoken with Jarvis, suggesting that the case be pursued further, but as with Louttit, Jarvis was flippant, saying, "The kid went out, got drunk, went for a walk and froze to death."[13] Tarasoff described Jarvis to the RCMP as, "an Englishman with a colonial attitude… When natives were involved he did not take it serious."[14]

Wright compares "the chasm that separates Anglophones and Francophones in Canada" with "the chasm that separates Aboriginal and non-Aboriginal people in this city and province."[15] According to Wright, this void is especially obvious when looking at interactions between Saskatoon's non-Indigenous police force and the Indigenous community. Finally, Wright emphasizes his sympathy for the Stonechild family and for members of the

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[11] Wright, *Report of the Commission of Inquiry into matters relating to the Death of Neil Stonechild*, 199.
[12] Ibid., 122.
[13] Ibid., 124.
[14] Ibid., 124.
[15] Ibid., 208.

Saskatoon Police Service, wondering how they dealt with "events they had absolutely no responsibility for."[16]

Rodney Naistus was a twenty-five-year-old member of the Onion Lake First Nation whose body was discovered on January 28, 2000, clothed in only shoes and sweatpants with his shirt and jacket nearby — despite the negative-twenty-five degree Celsius weather.[17] Like Stonechild, Naistus' childhood had been spent in and out of group homes and in isolation from his traditional land and community. The day before his body was found Naistus had spent celebrating his freedom from an urban work camp, punishment for several break-and-enter incidents. While his autopsy determined that Naistus died of hypothermia, the circumstances surrounding his death remain unclear. It is suspected that two officers, Constable Dan Hatchen and Constable Ken Munson, dumped Naistus outside of the city. He was most likely picked up for carrying open liquor (he was last seen doing just that); such behaviour would make him a prime target for police. Unfortunately, other than parts of their shift that they cannot account for around the time Naistus was last seen, there was nothing to link Hatchen and Munson to Naistus' death. Some investigating officers suggested that Naistus simply got lost, "either because he was unfamiliar with Saskatoon or was illiterate and could not determine the street sequence, since they were marked by letters of the alphabet."[18] It was also suggested that Naistus might have

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[16] Ibid., 211.

[17] Elizabeth Comack, *Racialized Profiling: Aboriginal People's Encounters with the Police* (Halifax & Winnipeg: Fernwood Publishing, 2012).

[18] Sherene H. Razack, *Dying from Improvement: Inquests and Inquiries into Indigenous Deaths in Custody*, (Toronto, ON: University of Toronto Press, 2015): 183, http://site.ebrary.com.ezproxy.library.uvic.ca/lib/uvic/detail.action?docID=11057831.

been in the industrial area in which he was found to pick up bottles at 2 a.m. in the freezing cold, though this seems like an improbable explanation. Sadly, Naistus' case was not pursued in any depth and there is little more information available on it.

Lawrence Wegner was the final confirmed case of an Indigenous man to be found dead as the result of dumping, on February 3, 2000. Wegner was a thirty-year-old Cree from the Saulteaux First Nation who suffered from depression and anxiety and had been going to school to become a social worker — though this aspect of his character is rarely mentioned. Instead, much focus is given to the drug abuse of Wegner's youth and it is often speculated that he had relapsed on the night of his death (thought to be January 30). According to witnesses, he had been dressed only in a t-shirt, socks, and underwear and was acting erratically. However, toxicology tests show that Wegner's body only had traces of THC and the therapeutic level of prescription drugs that he took for depression.[19] The jury members responsible for determining Wegner's cause of death at the coroner's inquiry were told to select one of three possible options – accident, accidental homicide, or undetermined – of which they decided on undetermined.

Four days after Wegner went missing, his frozen body was found, showing large bruises and evidence of haemorrhaging in his brain. Despite witnesses reporting that they had seen him being picked up by police, and the lack of wear on the socks he had supposedly been walking in (he was not found wearing shoes), law enforcement told the Wegner family that their son had most likely walked the six kilometres out of town to his death.[20] While the RCMP

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[19] Comack, *Racialized Profiling.*
[20] Ibid.

interviewed all the police officers on duty that night, none admitted to being in contact with Wegner on January 30.

Darrell Night is the only known survivor of a Starlight Tour. He came forward with his experience just days after Wegner and Naistus were found, and until he did so, it was difficult to link the freezing deaths of Indigenous men with the police. At the time of his encounter he was 34 years old and had a tense relationship with police officers. Night says that in the early morning of January 28, 2000, he was leaving a house party where a fight had broken out when officers Hatchen and Munson, the same two officers suspected of involvement in the death of Rodney Naistus, handcuffed him and put him in the back of their cruiser. Instead of taking him to the drunk tank as he had suspected they would, the officers drove Night out of town and dumped him there. The officers noted on their cruiser's computer system that they had been at the house call this entire time; they did not record or report their encounter with Night, and did not look up his information. Throughout the encounter the officers yelled racial slurs at Night and when he told them that he would freeze on the outskirts of town, they replied, "that's your fucking problem."[21] Fortunately, Night was able to make his way to a nearby power plant where an employee called him a cab home.

Night did not make an official complaint until his uncle told the story to an officer who became concerned, reported the incident to his supervisors, and convinced Night to make a statement. While it was eventually revealed that Hatchen and Munson were the officers responsible for dumping Night, they maintained that Night had requested to be let out of the car to "walk off his anger."[22] However this explanation is unconvincing as it

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[21] Comack, *Racialized Profiling*.
[22] Razack, *Dying from Improvement.*

does nothing to explain why they failed to log their activities or why they drove Night so far out of town.

Mainstream accounts characterize the Starlight Tours as isolated incidents, decontextualized from racism and colonialism. Razack says that dumping is either outright denied or explained away as a case of a few bad cops.[23] In fact, in the *Stonechild Inquiry*, Wright concludes that the dumping of Stonechild was an outcome of misunderstanding and cultural differences between white and Indigenous communities rather than systemic power relations with colonial origins.[24] However, this viewpoint is irresponsible and ignores the systemic racism and white heteronormative patriarchy that arise as logical outcomes of colonialism embedded in our society's social, economic, academic, cultural, and political institutions in order to "maintain the status-quo of white dominance."[25] This widely disseminated racist ideology, combined with oppression, negatively affects the self-image and self-governing capacity of the colonized. This leads to the internalization of harmful stereotypes and further oppression by the colonizers. Therefore, in a society created and maintained by colonialism, policing — which should otherwise serve to maintain order and civility — instead becomes a function through which the racialized order of society is, in its turn, created and maintained.[26] Many officers view Indigenous communities as

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[23] Razack, *Dying from Improvement.*

[24] Wright, *Report of the Commission of Inquiry into matters relating to the Death of Neil Stonechild.*

[25] Joyce Green, "From Stonechild to Social Cohesion: Anti-Racist Challenges for Saskatchewan," *Canadian Journal of Political Science,* 39, no. 3 (2006). doi:10.1017/S0008423906060215.

[26] Comack, *Racialized Profiling.*

undeserving of their protection; indeed, as communities from which settler society must be protected.[27]

The Starlight Tours were normalized by law enforcement and the media as a police strategy used to deal with violent and drunk Indigenous men. Johnson explains that just as French and British settlers justified colonialism by characterizing Indigenous peoples as violent savages in need of civilization, the colonial state continues to "filter their worldview through this lens."[28] Comack says that while past discourses cast Indigenous men as savage, inferior, and childlike, in need of a paternalistic civilizer, modern discourses present Indigenous men as alcoholics, welfare recipients, and criminals in need of heightened surveillance and policing.[29] That said, Comack's understanding of a 'past discourse' is in fact still occurring and is compounded by the arrival of a 'modern discourse.' Johnson names this stereotyping "Savagism" and says it is pervasive in all settler colonial institutions, especially "whitestream" media where Indigenous people are marked as violent, sexual, and drunk.[30] To absolve the police, and therefore the colonial state, of any wrongdoing also requires a characterization of Indigenous peoples as unmodern and violent alcoholics.

Obvious indicators of Indigenous suffering are understood by colonizers as natural consequences of Indigenous inadequacy in a neutral and equitable society,

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[27] Amnesty International, *Stolen Sisters*.

[28] Daniel M. Johnson, "From the Tomahawk Chop to the Road Block: Discourses of Savagism in Whitestream Media," *The American Indian Quarterly* 35, no. 1 (2011): 113. http://muse.jhu.edu.ezproxy. library.uvic.ca/article/414034/pdf.

[29] Comack, *Racialized Profiling*.

[30] According to Johnson, "whitestream" refers to white mainstream media, which is inherently colonialist and anti-Indigenous. See "From the Tomahawk Chop to the Road Block: Discourses of Savagism in Whitestream Media", 105-107.

best resolved through government programs that seek development and the eradication of cultural differences. Warry notes that the settler colonial state is in denial when it fails to recognize the impacts of policies and actions that marginalize the colonized.[31] The government blames its victims as responsible for their unfortunate circumstances, "rather than decades of government inaction and centuries of colonialism."[32] However the personal identity and self-governance — which are so vital for the physical, mental, and spiritual wellbeing of Indigenous communities — have instead historically been determined by the state for Indigenous communities. It is unsurprising then that Indigenous men may turn to violence or alcohol to numb their suffering when their bodies are already marked for death, or that these traits become internalized after ages of imposition of white heteronormative patriarchy.[33] Colonial discourses ignore how alcohol and interpersonal violence (as self-destructive coping mechanisms) were proliferated amongst Indigenous men because of colonialism and how present social conditions foster their continued use. Finally, it appears that the accepted use of alcohol in general society seems to be forgotten in the cases of the Starlight Tours, where Stonechild, Naistus, Wegner, and Night were assumed to have drank copious amounts on each of the nights they were dumped. In Wegner's case this is in contradiction to the conclusions of toxicology tests (which showed that he was in fact sober) before they were conducted, or even read.

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[31] Wayne Warry, *Ending Denial: Understanding Aboriginal Issues* (Peterborough, ON: Broadview Press, 2007): 70.

[32] Ibid., 70.

[33] Robert Alexander Innes, "Moose on the Loose: Indigenous Men, Violence, and the Colonial Excuse (with errata)," *Aboriginal Policy Studies* 4, no. 1 (2015): 51-54.

According to a study conducted by Elizabeth Comack, urban centers in the prairies — such as Saskatoon — are epicenters for arrests of Indigenous men. Comack found that 65 percent of Indigenous people who were incarcerated at the time of her study committed their offenses in a city rather than on a reserve. In the prairies, "young Aboriginal men have a greater likelihood of ending up in jail than they do of finishing high school."[34] Indigenous people in Canada experience circumstances that are "incompatible with social cohesion" and that make marginalization possible: poverty, low levels of education, high levels of unemployment, and involvement in what is deemed unacceptable or criminal activity, such as alcohol, drugs, homelessness, violence, and reliance on food banks and shelters.[35] The settler community is unconcerned with these issues because of the assumption that Indigenous men chose to be violent alcoholics and had "punishment by law enforcement coming," just as they believe murdered Indigenous female sex workers "brought themselves into danger by 'choosing their lifestyles.'"[36] Razack notes that this dehumanization is so deeply embedded that hardly anyone, other than two officers who were associated with the Indigenous community, could be bothered to look further into Stonechild's death.[37] It is thus clear that this is a case of pervasive and systemic racism. As Green notes, settlers carry preferential entry into institutions and see themselves reflected in these institutions in ways that Indigenous populations do not. Since Indigenous people do not belong in the picture of a colonized city, police use

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[34] Comack, *Racialized Profiling,* 219.
[35] Green, "From Stonechild to Social Cohesion," 514.
[36] Ibid., 517.
[37] Razack, *Dying from Improvement*.

dumping to "eject Aboriginal men from the primarily white urban society of Saskatoon."[38]

The literal and figurative removal of Indigenous people is a natural outcome of colonialism. Wolfe explains that "settler colonialism is inherently eliminatory" because the existence of the colonized obstructs the colonizers' access to land and wealth.[39] Settler colonialism produces and sustains ongoing evictions of Indigenous people from the colonial city because their very presence is a challenge to settler occupation.[40] Public indifference to the Starlight Tours reveals that deaths of Indigenous people are not viewed as murder, and that their expulsion is more akin to the dumping of waste than of an actual human body.

The logic of erasure is evident in multiple cases, such as the restrictive racial classification of Indigenous people as measured by blood quantum, the removal of Indigenous men from the colonial city in the Starlight Tours, or the murder and disappearance of Indigenous women. As we can see, erasure is gendered. Chris Finley argues that violence committed against Indigenous men serves to remove them as sexually available to Indigenous women, thus necessitating the presence of white men to fill that role.[41] Indigenous bodies are removed as a method by which white heteropatriarchy, a necessary component of

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[38] Green, "From Stonechild to Social Cohesion," 516.

[39] Patrick Wolfe, "Settler colonialism and the elimination of the native," *Journal of Genocide Research* 8, no. 4 (2006): 387. doi: 10.1080/14623520601056240.

[40] Razack, *Dying from Improvement.*

[41] Chris Finley, "Decolonizing the Queer Native Body (and Recovering the Native Bull-Dyke): Bringing 'Sexy Back' and Out of the Native Studies' Closet," in *Queer Indigenous Studies,* ed. Qwo-Li Driskill, Chris Finley, Brian Joseph Gilley, and Scott Lauria Morgensen (Tucson: University of Arizona Press, 2011); see Michael Foucault, *The History of Sexuality*, vol. 1: *An Introduction* (New York: Vintage Books, 1978): 146-150.

colonialism, is maintained. White heteronormative patriarchy encompasses the dominance of white heterosexual men in political, economic, and social institutions; and in order to maintain this fragile hierarchy, LGBTQ people, women, and people of colour (or those 'other' than the Western mainstream) are silenced and oppressed by the system as part of said patriarchy. Indigenous men are clearly 'others' and thus are targeted for removal.

There have been numerous suggestions that the resolution and prevention of the Starlight Tours depends on building positive relationships between Indigenous communities and the police. Comack suggests that Indigenous people should be encouraged to make formal complaints about their treatment by police or that police departments should increase the proportion of Indigenous officers.[42] In its Stolen Sisters report, Amnesty International recommends that police be more accountable to Indigenous communities and that they work to become more knowledgeable about, and culturally sensitive to, the populations they are sworn to protect.[43]

After the rise in publicity surrounding the Starlight Tours in 2000, the Federation of Saskatchewan Indian Nations formed the Commission on First Nations and Metis Peoples and Justice Reform. The Commission notes that a strong policy to address racism within the force is necessary, but that this will not necessarily resolve strained relationships. If Indigenous communities are to respect the law, the law must in turn respect their needs.[44] Coercive practices against Indigenous people, including excessive use of force and the Starlight Tours, as well as disregard for

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[42] Comack, *Racialized Profiling*.

[43] Amnesty International, *Stolen Sisters*.

[44] Commission on First Nations and Metis Peoples and Justice Reform, "Policing," *Legacy of Hope: An Agenda for Change* 1, no. 5 (2004).

the principle of 'innocent until proven guilty' need to be addressed immediately. Finally, as is made obvious when we look at the lack of complaints against police in the cases of the Starlight Tours, Indigenous people "have no confidence that investigations of police complaints are fair or effective."[45] The Saskatoon Police Department has responded by extending its work with local Indigenous groups, teaching Indigenous history, hiring more Indigenous officers, and selecting an Indigenous woman to serve as the chair of the Saskatoon Board of Police Commissioners.[46] The government of Saskatchewan has also established a new and strengthened Public Complaints Commission, which includes an Indigenous and a Métis member.[47]

These approaches may be helpful in humanizing Indigenous men but they do not go far enough to challenge current colonial structures. Green responds to calls for greater understanding between settler and Indigenous communities by saying that they imply that "the problem of racism is caused by misunderstandings, rather than by disproportionate power and malice held by those in the dominant community, who also benefit from the subordinated status of Indigenous people."[48] Razack suggests that cultural difference is used as a way to turn attention away from controversial police violence and indifference, to cleanse public memory of this dehumanization.[49] It removes racism and colonialism from

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[45] Commission on First Nations and Metis Peoples and Justice Reform, "Policing," 24.
[46] Nicole Ireland, "Canadian police must acknowledge racial bias to fix it, Indigenous advocates say," *CBC News*, Sept. 25, 2016. http://www.cbc.ca/news/indigenous/police-racial-bias-aboriginal-canada-1.3761884.
[47] Green, "From Stonechild to Social Cohesion."
[48] Ibid., 520.
[49] Razack, *Dying from Improvement*.

the conversation. In addition, Green says that many proposed solutions involve increased Indigenous participation in dominant processes, while the dominant population is usually not expected to change at all. This extends colonialism and assimilation rather than questioning it. Green proposes that Indigenous communities and their allies need to first demonstrate that racism is indeed present and systemic and then move to strategies for building social solidarity and undermining racial privilege and discrimination. Social cohesion is only possible with the abolition of racism, which "injures the capacity of the body politic to work collaboratively toward common visions."[50] Finally, Green theorizes that decolonization will depend upon political leadership that confronts the past, takes responsibility for it, and moves forward to forge new and meaningful bonds between Indigenous and non-Indigenous peoples.

 As has been shown, the Starlight Tours are not isolated incidents, but visible cases of racism and violence conducted through colonial institutions towards Indigenous men. The cases of Stonechild, Naistus, Wegner, and Night are justified by mainstream discourses as the understandable responses by white men in an attempt to handle stereotypically drunken and violent Indigenous men. In reality, the suffering of Indigenous communities was created and is sustained through these colonizing practices and others like them. The elimination of Indigenous men serves to further secure white patriarchy's position. While increased acceptance and collaboration between Indigenous communities and police departments may help to humanize Indigenous men, racism and white privilege must be disassembled in order to achieve decolonization and the development of new, peaceful, and equitable relationships.

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[50] Green, "From Stonechild to Social Cohesion," 518.

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Canadian Non-Citizen Rights

Chris J. Chan

Violent conflicts and political prosecutions are putting pressure on the international community and national governments to create legislation for the increasing number of displaced individuals. As a western liberal democracy, Canada prides itself as one of the leaders of domestic human rights protection laws. Rightly so, as Canada is a signatory of multiple international human rights conventions and receives refugees annually. This shows the Canadian government's commitment to enhancing non-citizens' rights internationally and domestically. Furthermore, the Supreme Court had ruled on several landmark cases that are seen as major victories for the development of Canadian non-citizens' rights. For example, *Singh v. Minister of Immigration and Employment 1985* (*Singh*) extended the Charter of Rights and Freedoms protections (*Charter*) to non-citizens on Canadian soil. On the surface, Canada seems to be a bastion of protecting human rights.[51] However, this paper will show that Canada does not protect enough of the rights of non-citizens.

The paper will begin with an examination of progress in Canadian non-citizen jurisprudence and the early promises from Supreme Court decisions. Afterward, it will contrast the early promises with governmental actions and court rulings that contradict Canada's commitment to international human rights. Furthermore, this paper will address underlying problems such as the Court's exclusive usage of the *Charter,* judicial inaction,

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[51] "Singh v. Minister of Employment and Immigration," Supreme Court Judgements, Lexum, accessed November 24, 2017. https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/39/index.do

and discriminatory legislation. This paper aims to identify the landmarks of Canadian non-citizen rights jurisprudence, additionally, it aims to showcase the Court decisions and governmental actions that negatively impact Canada's commitment to international conventions and human rights.

Singh, at the time of its ruling, seems to be a major victory for advocates of non-citizens' rights protection. *Singh* was a case concerning whether Canadian constitutional rights can be extended to non-citizens on Canadian soil. Harbhajan Singh sought asylum and claimed convention refugee status. In 1980, he fled India in fear of political prosecution. However, he was rejected by the Ministry of Employment and Immigration on the advice of the Refugee Status Advisory Committee. Singh appealed to the court and argued that the Ministry had violated his constitutional right to "life, liberty, and security of the person" during their refugee selection procedure as he was denied any oral hearing after getting his application rejected.[52] The government argued that since Singh was a foreign national, he was not eligible for the constitutional protection normally guaranteed to Canadians.

In its landmark ruling, the court noted that Singh was not trying to assert his right as an individual with pre-existing convention refugee status, however, the court states that Section 7 of the *Charter* guarantees that Singh, even if he was a non-citizen, had the right to "fundamental justice" and "due process." Additionally, the court reasoned that the government failed to show "adequate" disclosure prior to the hearing and could not prove that it was within a reasonable limit, thus, they had violated the constitution.[53] In effect, this ruling extended the *Charter* to all individuals

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[52] Heather MacIvor, *Canadian Politics and Government in the Charter Era* (Oxford: Oxford University Press), 169.
[53] Lexum, "Singh".

on Canadian soil by guaranteeing Singh, a non-citizen, his right to Section 7 of the *Charter*.

In another decision, in 1989, *Andrews v. Law Society of British Columbia* (*Andrews*), the court articulates the vulnerability of non-citizens and its responsibility to protect their rights. Mark David Andrews was a British citizen who was denied practicing law in British Columbia. Andrews argued that this prohibition violated Section 15 equality rights.[54] He claimed that the BC bar violated his equality rights when they rejected his application to practice law on the grounds that he was not a citizen. Consequently, Chief Justice Wilson stated that non-citizens are particularly disadvantaged since they do not have the right to vote. Thus, elected officials have "no apparent interest" in representing the needs of non-citizens.[55] In a 6-2 decision, the Court decided in favour of Andrews, it held that the Law Society of British Columbia did violate his Section 15 rights. It became one of the first cases to set a precedent over non-citizens rights alongside *Singh.*

The *Singh* and *Andrews* cases, brought great promises to non-citizens' rights. However, governmental actions and court rulings post-*Singh* show that, in reality, non-citizens' rights protection had not been advanced but actively suppressed. There are multiple cases that showcase the court's exclusivity with *Charter* usage to determine non-citizens' rights, even if there is a better suited international law that the court can draw from. The court's reluctance in adopting international conventions in binding

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[54] "Constitution Act, 1982," Justice Laws Website, Canada, accessed November 24, 2017 http://laws-lois.justice.gc.ca/eng/Const/page-15.html

[55] Catherine Dauvergne, "How the Charter has failed non-citizens in Canada: reviewing thirty years of Supreme Court of Canada Jurisprudence," *McGill Law Journal* (2013), 672.

governmental actions over non-citizens' rights exemplifies Canadian political morality during the securitization of refugee politics.

In *Suresh v. Ministry of Immigration and Employment*, the central issue the court had to address was whether the deportation of an individual at the risk of torture was legal in Canada. Suresh was a Sri Lankan claiming asylum in Canada, however, it was discovered that he had connections as a fundraiser with the Liberation Tigers of Tamil Eelam, a Sri Lankan terrorist organisation. In 2003, he was notified that he would be deported. Suresh appealed on the grounds that Section 7 (life, liberty, and security of the person) of his constitutional rights would be violated. However, the Court ruled that there must be a balance between protecting rights of non-citizens and Canada's national security.[56] Dauvergne notes that *Suresh* was decided during heightened securitization of politics. The 9/11 attacks were still very recent, and political powers at the time restrained the Court in its interpretation of the *Charter*.[57] The Court articulated that in certain circumstances the *Charter* will permit deportation if there is a possibility of torture. Specifically, the individual will be examined to see whether they posed a "danger to the security of Canada." This categorisation must be grounded on "objectively reasonable evidence" and involving "substantial threatened" violence. Thus, even if Canada tries to uphold international norms, any expression of violence and terror will not find "shelter" under the *Charter*.[58]

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[56] "Suresh v. Canada (Minister of Citizenship and Immigration)," Supreme Court Judgements, Lexum, accessed November 24, 2017. https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/39/index.do.
[57] Dauvergne, "Charter has failed non-citizens in Canada," 691.
[58] Lexum, "Suresh".

This is in contrast to the prevailing international norm. Conventions such as the *Convention Against Torture* states that "everyone" is protected from state-sponsored torture. Additionally, article 33 of the *Refugee Convention* ensures there is "non-refoulement" where refugees cannot be rejected by the state if their livelihood is threatened by their home country.[59] Instead of using international norms to bind governmental actions, the Court draws exclusively on the *Charter* to establish a precedent on deportation to torture. The Court states that it is not the *Torture Convention* that determines the actions of the government. Instead, the Court states that Section 7 of the *Charter* is the main instrument that governs the issue of deportation. Additionally, instead of using the explicit nature of the *Charter* to prohibit deportation to torture, the Court used a "case-by-case" approach.[60] The Court leaves the power of discretion to the Ministries, noting that there must be a balance between moral decision-making and protecting the security of Canada.

After *Singh,* it appears that the judiciary is ready to tackle non-citizens' rights with the newly-entrenched *Charter.* However, the reality is that non-citizen rights claims rarely reach the Supreme Court. The judiciary's *inaction* to hear certain cases shows the lack of commitment to understanding the extent of non-citizen rights protection. An example can be seen with Nisreen Ahamed Mohamed Nilam. He was a Sri Lankan national who obtained permanent residence and refugee status during the Sri Lankan civil war. Upon visiting his home country, he is now at risk of getting his refugee status removed. Canadian "cessation rules" state that if a refugee

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[59] "Convention and Protocol Relating to the Status of Refugees," United Nations Refugee Agency, accessed December 4, 2017. http://www.unhcr.org/3b66c2aa10, 30.
[60] Lexum, "Suresh".

voluntarily returns to the protection of their home country or obtains citizenship from another country, they are at risk of losing their refugee and permanent residence status.[61] Furthermore, in 2012, Stephen Harper's government expanded the rules to affect status refugees that also held permanent residency. As a result, the government launched a cessation case against Nilam. Countless refugees are now suspended in a "limbo" where they cannot apply for Canadian citizenship until their cessation case is resolved.[62] The Court's refusal to hear Nilam's case creates uncertainty for many refugees, like Nilam, whose future in Canada may be taken away without notice. Without jurisprudence over the scope of cessation rules, the government is allowed to launch cessation cases against refugees and permanent citizens alike.

The Canadian Council for Refugees (CCR) case challenge against Canada's *Safe Third Country Agreement* (STCA) in 2007 is another example of the Supreme Court's inaction. Under the STCA, asylum seekers must apply for asylum in the first country they enter, unless the claimant had immediate family in the receiving country.[63] The governmental argument for this agreement is to prevent

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[61] "Cessation and vacation of refugee protection," Government of Canada, accessed December 4, 2017, https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/operational-bulletins-manuals/refugee-protection/vacation.html.

[62] Maura Forrest, "System of 'Second-Class Permanent Residents' Developing, Says Lawyer; Supreme Court Refuses to Hear Refugee Case," *National Post,* accessed Aug 11, 2017. http://search.proquest.com.ezproxy.library.uvic.ca/docview/1927945924?accountid=14846.

[63] Rachel Settlage, "Indirect Refoulement: Challenging Canada's Participation in the Canada-United States Safe Third Country Agreement," *Wisconsin International Law Journal* 30, (Madison: University of Wisconsin Law School, 2012), 144.

"asylum shopping" where claimants move around to seek the country that best suits their needs. This agreement presented refugees with obstacles that limited their ability to move to a country that offered more protection. During the trial, the Lower Court sided with the CCR. The Lower Court states that the STCA puts a refugee's "right to life, liberty, and security" at risk.[64] However, when the decision was appealed, the Court of Appeal rejected its arguments and overturned the decision on the grounds of the "absence of factual basis" by which the *Charter* has been violated.[65] Specifically, the Appeal Court stated that this challenge is contextual and should be advanced by a refugee who had been denied asylum.[66] This case was not heard by the Supreme Court and further deliberated. Consequently, the scope of non-citizens' rights is difficult to navigate and filled with uncertainty.

The lack of jurisprudence over non-citizens' rights in Canada decreases restraints on discriminatory governmental legislation. The CCR conducted a report on Canada's compliance to the *International Covenant on Economic, Social and Cultural Rights* (CESCR) for the UN Committee on Economic, Social and Cultural Rights in 2006. The report points to societal racism that leads to the normalization of denying non-citizens' basic rights.[67] The report found three major governmental violations against non-citizens' rights.

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[64] "The Queen v. Canadian Council for Refugees, Canadian Council of Churches, Amnesty International and John Doe," Canada: Federal Court of Appeal, Refworld, accessed March 4, 2018, http://www.refworld.org/cases,CAN_FCA,497f38fa2.html.

[65] Dauvergne, "Charter has failed non-citizens in Canada," 717.

[66] Refworld, "Canadian Council for Refugees". 45.

[67] Canadian Council for Refugees, "Non-Citizens in Canada: Equally Human, Equally entitled to Rights", accessed December 4, 2017, http://ccrweb.ca/files/cescrsubmission.pdf, 1.

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First, CESCR outlines the importance of unifying
and protecting families with children. However, the
government has passed legislation that directly contradicts
the convention. Regulation 117(9) of *The Immigration and
Refugee Protection Act (IRPA)* disqualifies any individual
of the family that had not been disclosed in the initial
sponsorship application. The prohibition is permanent, no
matter if there are children involved. Again, this regulation
was challenged on the grounds that it violated the "security
of the person" in *de Guzman v. Canada 2006 (de Guzman)*;
however, the Court of Appeal held that Regulation 117(9)
is valid on the grounds that Section 25(1) of the *IRPA*
allows for discretionary review.[68] The Supreme Court
decided not to intervene in the case.

Second, the report finds the government
discriminatory in its extension of services and benefits to
non-citizens. CCR states that even though the non-citizens
were tax-payers that contribute to the Canadian economy,
they can be denied services that are meant to improve their
quality of life. For example, the National Child Tax benefit
is a federally-funded program that was designed to alleviate
economic pressures for low-income families. However,
because of the status as a non-citizen, the children would
not be able to receive the program's benefits, even if their
non-citizen parents are tax-payers.[69]

Finally, the report found that temporary non-citizen
workers, who are employed for seasonal agricultural work,
face numerous obstacles to accessing basic governmental
services. The report notes that obstruction of access to
Employment Insurance benefits shows the discriminatory
nature of the Canadian government. Furthermore,

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[68] Canadian Council for Refugees, "Non-Citizens in Canada," 3.
[69] Ibid., 14.

temporary workers lack the opportunity to unionize and advocate for their interests. For example, in Ontario, non-citizen agricultural workers do not have the right to form or join a union.[70] More importantly, temporary workers are excluded from the *Ontario Employment Standards Act*, which means the workers do not have the protection of "minimum work hours, mandatory rest periods, holidays, and overtime pay."[71] This CIC report shows that without non-citizens' rights jurisprudence, non-citizens are vulnerable to labor exploitation.

Non-citizens are an vulnerable population due to their precarious status within society; therefore, it is the responsibility of the state to protect and enforce non-citizen interests. In Canada, it is evident that the Supreme Court is willing to extend most rights to non-citizens through cases like *Singh*. However, through a closer examination of governmental action, judicial inaction, and *Charter* exclusivity, Canada had fallen behind in comparison to other countries. The Court must decide whether they would be willing to expand non-citizens' rights jurisprudence. Furthermore, the government must act in accordance with international law like the CESCR. Lastly, it is the responsibility of Canadians to challenge any governmental violations and speak out for non-citizen rights.

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[70] Canadian Council for Refugees, "Non-Citizens in Canada," 15.
[71] Ibid., 15.

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Challenging Populist Parallels
The Arab Uprisings and the Western Populist Wave

Cameron N. Fox

The first two decades of the 21st century have witnessed a significant surge of populist sentiment, particularly in the West, accompanied by the rise of populist parties and leaders. This essay seeks to provide an overview of the 2011 Arab uprisings in order to examine whether they could be considered a part of this "populist wave". After offering a conceptual outline and brief overview of the recent ascendency of populism in the West, this essay will provide a political and ideological history of the Arab world in the 20th century, aiming to identify some of the most important structural factors that made the Arab uprisings possible, such as economic stagnation and the "President for life" system. It will then examine the role that "the people" played in these uprisings, and conclude by attempting to identify some key similarities and differences between the Arab uprisings and the populist wave in the West. Overall, while there are some similarities in the underlying causes, this paper will argue that there is insufficient evidence that the Arab Uprisings embodied the sort of "moral imagination" that signifies a populist movement. Therefore, direct comparisons between the Arab Uprisings and Western populist wave should be avoided.

Despite the media's apparent propensity to label any sort of political rhetoric that emphasizes popular themes as "populist," populism is a specific political discourse that requires the presence of particular elements. In *What is Populism?*, Jan-Werner Muller argues that populism is not a "codified doctrine," but rather a "set of

distinct claims" that have an "inner logic."[72] Thus, populism is not an ideology, but rather a "particular moralistic imagination of politics;" specifically one that places a "morally pure and fully unified 'people' against 'elites', who are deemed corrupt or in some way morally inferior."[73] Populism is therefore not limited to any one particular ideology or orientation: right-wing attacks on "coastal elites," nationalistic critiques of globalism, and left-wing opposition to "the 1 percent" are populist if they are framed in moral terms. Thus, a key identifier of a populist movement is the presence of what Muller deems a "moral imagination" of politics.

Muller also argues that all populist discourses share a particular ideological tenant: a belief that "the people" are the ones who work, and that the economic, intellectual, and political elites live "like parasites" off the work of the people. This 'producerism' is frequently, but not necessarily, extended in populist discourses beyond the elites and applied to more marginalized segments of the society. Additionally, while they may not necessarily contain a strong identitarian element, populist discourses are always "antipluralist," meaning that "the people" are portrayed as fully unified and capable of having their will fully expressed by one true representative. Mudde and Kaltwasser thus argue that populism articulates a Rousseauian conception of the general will. This conception of the general will can be used to argue in favor of representative democracy; however these authors also note that it can also be used to legitimate authoritarianism or violence against anyone who is identified, in Schmittian

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[72] Jan-Werner Muller, *What is Populism?* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2016), 10.
[73] Ibid., 19-20.

fashion, as an outsider or enemy.[74] For example, proponents of the 2016 British vote to leave the European Union celebrated their success as a "victory for real people."[75] It is for this reason that populism in the West is compatible with ethnic nationalism; those perceived as not being a part of "the people" can easily be "othered," allowing unsatisfactory political outcomes to be explained away as the fault of this "other." Muller argues it is this holistic aspect of the populist project that distinguishes it from the merely popular: any politician in a democracy can rail against "the elites" and appeal to "the people" (plural), but only a populist will construct a singular "people," and place it in moral, not merely political, opposition to the elites.[76]

While the roots of populism in Western political culture extend back to the "prairie populism" that emerged in 19th century North America, the 2008 Global Recession triggered a global resurgence of populism.[77] While this wave has given rise to left-wing, economically-centered populist movements such as Occupy Wall Street and the Spanish *Podemos* Party, the right-wing variety of populism, which includes the Tea Party movement and numerous Eurosceptic political parties, has seen a greater resurgence.[78] These right-wing populist movements generally "combine populism, authoritarianism, and nativism," emphasize "law and order" issues, and rely, to some extent, on ethnic and religious-centered nationalism.[79] The Presidential election of Donald Trump and the United Kingdom's vote to leave the European Union are just two

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[74] Cas Mudde and Cristóbal Rovira Kaltwasser, *Populism: A Very Short Introduction* (New York: Oxford University Press, 2017), 18.

[75] Ibid., 22.

[76] Muller, *What is Populism*, 40.

[77] Ibid., 22-27.

[78] Ibid., 37.

[79] Mudde and Kaltwasser, *Populism: A Very Short Introduction,* 32-37.

manifestations of a movement that has increased its political power in nearly every European country. [80] This resurgence, though, is not limited to Europe and the United States: right-wing populist and anti-immigration parties have surged in New Zealand and Australia, and even Israeli Prime Minister Benjamin Netanyahu[81] and Philippine President Rodrigo Duterte[82] have been described as populist.

While it would be impossible to describe here all of the factors that have contributed to this global populist wave, three aspects of Western populism are particularly relevant for the purposes of comparison. First, populism in the West is, to a large extent, a reaction to economic conditions, including austerity and privatization, wage stagnation, the rising cost of living, and income inequality.[83] Second, populists in democratic states generally argue that the political system has been hijacked to serve the interests of the elites, rather than the people, and argue that it should be reformed to reflect the will of the people once again. In the United States, for example, right-wing populists argue that an overreaching federal government has exceeded the bounds of the Constitution, while both left and right-wing populists emphasize the relative influence of special interest groups on the

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[80] Katie Forster, "Europe's new fascism? The far-right leaders hoping to take power in 2017." *The Independent*, November 15, 2016. <http://www.independent.co.uk/news/world/europe/marine-le-pen-geert-wilders-norbert-hofer-rise-of-fascism-europe-far-right-leaders-donald-trump-a7417276.html.>

[81] Mudde and Kaltwasser, *Populism: A Very Short Introduction,* 38-40.

[82] Nicole Curato, "Flirting with Authoritarian Fantasies? Rodrigo Duterte and the New Terms of Philippine Populism." *Journal of Contemporary Asia* 47, no.1 (2017): 142-153, 145.

[83] James L. Gelvin, *The Arab Uprisings: What Everyone Needs to Know*, 2nd Ed (Oxford: Oxford University Press, 2015), 183.

legislative process.[84] In the same vein, European populists generally oppose further integration into the European Union, seeing it as a "bureaucratic, socialist, undemocratic Moloch that serves only a cosmopolitan elite."[85] Finally, nationalist right-wing populism has arisen in response to a perception that formerly "virtuous and homogenous" western cultures and societies are being eroded, corrupted, and fragmented by phenomena such as globalization, migration, and official multiculturalism.[86] The perceived loss of national and cultural identity creates a very real sense of insecurity among segments of the population, which populists seek to cultivate and channel for their political purposes.[87] In particular, populists in the West argue that "pro-globalization supranational liberal elites" are eroding the West's traditional Christian identity through "an aggressive process of Islamization." Interestingly, many populists are not overtly Christian, but instead emphasize Christianity as an identity, rather than a faith: as Oliver Roy writes, they "place Christendom above Christianity."[88] An awareness of these three factors helps us to understand why populism is surging in various parts of the Western world. Against this backdrop, this paper will now turn to consider the recent political history of the Arab World and identify broad political trends which the Uprisings rebelled against, notably the emergence of the "President for life" system.

First, any analysis of the contemporary politics of the Middle East must consider the legacy of Empire, be it Ottoman, or colonial European. Selim Deringil notes that,

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[84] Muller, *What is Populism,* 88-91.
[85] Mudde and Kaltwasser, *Populism: A Very Short Introduction,* 35.
[86] Nadia Marzouki, Duncan McDonnell, and Oliver Roy, *Saving the People: How Populists Hijack Religion* (Oxford: Oxford University Press, 2016), 4.
[87] Ibid., 4.
[88] Marzouki, McDonnell and Roy, *Saving the People* ,186.

toward the end of the 19th century, the Ottoman Empire came to see colonialism as both a "modern way of being" and a "survival tactic" against the "aggressive industrial empires of the West."[89] This outlook combined with a synthesis of "Islamic Ottoman empire building," "Enlightenment-inspired centralizing reforms," and an Anatolian desire to "civilize" the "nomadic" Arab peoples, manifesting in an Ottoman project to both centralize power and increase political control over the diverse regions it ruled.[90] Resentment against this exertion of "semi-colonial" power and its accompanying mission to "bring the nomad into the fold of civilization" developed among Arabs in the periphery of the Ottoman Empire,[91] and resulted in the First Arab Revolt of 1916. Mainly centered around northern cities such as Beirut, Damascus, and Baghdad, the Revolt was crucial in the development of Arab nationalist feeling, but ultimately ended as Ottoman imperial power was replaced with a fully colonial system of European rule.[92]

As Marwan Bishara argues in *The Invisible Arab,* the scars of colonialism extend far beyond geography. Colonial powers exerted direct political influence on Middle Eastern states before and during the process of formal decolonization, seeking to ensure "obedient" leadership ruled what were de-facto client states of the imperial powers.[93] Even after decolonization, direct

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[89] Selim Deringil, "'They Live in a State of Nomadism and Savagery': The Late Ottoman Empire and the Post-Colonial Debate." *Comparative Studies in Society and History* 45, no. 2 (2003): 311–42, 313.
[90] Ibid., 316-29.
[91] Marwan Bishara, *The Invisible Arab: The Promise and Peril of the Arab Revolutions* (New York: Nation Books, 2012), 28.
[92] Curtis R. Ryan, "Inter-Arab Relations and the Regional System" in *The Arab Uprisings Explained: The New Contentious Politics of the Middle East,* edited by Marc Lynch (New York: Columbia University Press, 2014), 113.
[93] Bishara, *The Invisible Arab,* 24-33.

intervention against problematic leadership was undertaken, such as the 1953 American and British-led Coup against Iranian Prime Minister Mosaddegh, and the failed British, French, and Israeli attempt to remove Egyptian President Abdel Nasser from power in 1956.[94] Even without direct intervention from foreign powers, the legitimacy of newly-formed Arab states was undermined by ongoing sectarian conflict, core-periphery tensions, waves of military coups, defeat at the hands of Israel in 1948, and a common perception that political elites were still puppets of recently departed colonial masters.[95] These factors created a feeling of "internal and external insecurity" and "inadequate stateness" among Arab peoples, although Roger Owen notes that struggle against ongoing colonial domination produced the earliest examples of "coherent nationalist movements" that would later influence Middle Eastern politics.[96]

The product of this tumultuous period was the creation of a political system that would dominate much of the Middle East right up until the Arab Uprisings, and arguably remains in place today: the Middle Eastern "President for life." Since the fragile, newly independent Middle Eastern states became increasingly dependent on their militaries to crush political opposition, the power and status of the military grew in Middle Eastern societies. As a result, many "populist[97] military officers" took power in the 1950s and 60s, appealing to the economic as well as the political frustrations of Middle Eastern lower classes, espousing "secular, socialist, and nationalist agendas," and

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[94] Bishara, *The Invisible Arab,* 26.
[95] Roger Owen, *The Rise and Fall of Arab Presidents for Life* (Cambridge, Massachusetts: Harvard University Press, 2012), 15.
[96] Owen, *Arab Presidents for Life*, 14.
[97] [*Sic*]

preaching "patriotism, dignity, and justice."[98] These leaders, such as Egypt's Abel Nasser, articulated Marxist economic principles, nationalized industries, and developed unique economic models such as "Arab Socialism," or, in the case of Iraq and Syria, "Ba'athism."[99] However, these "revolutionary" leaders generally abandoned their more radical economic projects as time went on, preferring to focus on "development," which often involved economic liberalization.[100] Power was concentrated and then personalized, a process that necessitated centralizing decision-making authority with the President and distributing resources to the military leadership in order to maintain the loyalty of the armed forces.[101] The personalization of power involved the construction of a "two-way relationship" between the President and the people; for example, a discursive analysis of Nasser's speeches after his consolidation of power notes that he rarely used the first-person when speaking in public, preferring to instead develop a "*we* of co-responsibility." Thus, Nasser no longer merely spoke *for* the Egyptian people – he *was* the Egyptian people.[102] These leaders rejected pluralism, and saw democracy as "a practice that did not require [representation]," arguing that they personally embodied both the people and the revolution and would carry out the aims of both.[103] The regimes thus sought to "erase features of plurality and diversity in order to establish a uniform political society based on the ruling ideology."[104] Through a process of censorship, repression, and corruption, the boundaries between state, military, and

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[98] Bishara, *The Invisible Arab,* 28.
[99] Owen, *Arab Presidents for Life*, 39.
[100] Ibid., 39.
[101] Ibid., 46.
[102] Ibid., 30.
[103] Ibid., 27.
[104] Bishara, *The Invisible Arab,* 35.

regime were obfuscated, with governments increasingly resembling "the private estates of the ruling families." [105]

Overall, the President for life system was remarkably successful at maintaining the power of Arab leaders. Presidents who died in office were succeeded by political allies: Nasser, for example, died in 1970 and was succeeded by his Vice-President, Anwar Sadat, who was assassinated in 1981 and succeeded by his own Vice-President, Hosni Mubarak.[106] The system survived well into the 21st century: on the eve of the Uprisings, the Arab world contained "nine presidents, of whom seven clearly intended to stay in office for life and six were over sixty – a veritable kingdom of the old."[107] While the ostensibly sudden outbreak of unrest across the Arab world in 2011 caught almost everybody off guard, Owen identifies four structural factors that propagated the President-for-life system in the Arab World, but which also weakened in the years preceding the Arab Uprisings and created circumstances ripe for such an outbreak of dissent.

First, many authoritarian Arab states attempted to maintain both constitutional legality and popular legitimacy though the practice of managed elections. This was usually accomplished by laws that banned political parties "based on religion, class, regional loyalties, or foreign association." Ostensibly enacted to protect national unity, the real purpose of these laws was to produce a "tame but national" opponent, "with no access to a coherent set of easy-to-mobilize constituencies."[108] The unanticipated success of this controlled opposition could prove

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[105] Ibid., 35.
[106] Dan Smith, *The Penguin State of The Middle East Atlas,* 3rd Ed (New York: Penguin Books, 2016), 116-17.
[107] Owen, *Arab Presidents for Life,* 172.
[108] Ibid., 55-57.

embarrassing for regimes: in 2010, the Egyptian regime had to resort to blatant ballot-stuffing to forestall the success of Muslim Brotherhood candidates in parliamentary elections, causing public outcry.[109]

Second, the popularity of presidential regimes depended on the continued deliverance of economic growth and human development. Onn Winckler identifies a "social contract" between Arab regimes and their citizens, based on the provision of social services, the subsidization of food and energy, and expanded funding of security forces "to continue the armed conflict with Israel."[110] Even in Arab states without significant oil reserves, the spin-off effects of oil production elsewhere in the region, inducing direct aid, tourism, and remittances, were sufficient to maintain this social contact and deliver an acceptable level of economic growth to the citizenry throughout the second half of the 20th century.[111] In the early 2000s, however, the economic situation of most Arab states worsened as a result of population growth, rising commodity prices, and inflation.[112] Unemployment rates rose, especially among young people, while the cost of food, even with government subsidies, rose constantly. The 2008 Recession accentuated both of these problems, and while higher oil prices allowed the oil-producing Arab states to increase spending on social programs, other Arab governments were left with little choice but to maintain subsidy levels (increasing inflation) and run massive budget deficits.[113] Youth unemployment thus reached as high as 28% in Tunisia, and food prices rose a remarkable 37% over two

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[109] Owen, *Arab Presidents for Life*, 56.

[110] Onn Winckler, "The 'Arab Spring': Socioeconomic Aspects." *Middle East Policy* 20, no. 4 (2013): 68-87, 68.

[111] Ibid., 69.

[112] Ibid., 72-3.

[113] Ibid., 79.

years in Egypt.[114] Winkler thus argues that the failure of the social contract was more significant in the non-oil-producing states, which helps explain why they would experience comparatively more unrest in the years to follow.[115]

Third, in addition to failing to provide them with an improved standard of living, or at least meaningful economic prospects, Arab regimes "failed to incorporate the majority of their youthful populations into their systems of ideology." Owen remarks that it is "no wonder Mohamed Bouazizi (the Tunisian produce vendor who self-immolated after mistreatment by local authorities) became such a symbol," especially to thousands of his fellow un-or under-employed Tunisian university graduates.[116] Finally, an over-centralization of institutions and a "preoccupation with stability" left Arab regimes unable to proactively recognize or respond to domestic political crises, forcing them to instead resort to political repression.[117] The proliferation of social media – as well as more conventional forms of mass media such as Radio Al-Jazeera – made issues such as corruption and police brutality ever more apparent to the general public, while the upper ranks of Arab militaries doubted whether their subordinates would carry out orders to suppress mass demonstrations.[118] Expressions of popular discontent with economic conditions emerged throughout the late 2000s, particularly in Arab North African states.[119] In Egypt, organized political opposition to the Mubarak regime emerged, for

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[114] Ibid., 72-3.
[115] Winckler, "Socioeconomic Aspects," 74.
[116] Owen, *Arab Presidents for Life,* 174.
[117] Ibid., 175.
[118] Ibid.*,* 176.
[119] Marc Lynch, "Introduction" in *The Arab Uprisings Explained: The New Contentious Politics of the Middle East*, edited by Marc Lynch (New York: Columbia University Press, 2014), 7.

example, with the *kefaya* (enough) movement, however it was not until Bouazizi's self-immolation that opposition to existing regimes exploded across the region.[120]

 Bouazizi's act took place in December of 2010, triggering mass protests in his native town of Sidi Bouzid which reached Tunis before the end of the month. President Ben Ali promised jobs, new parliamentary elections, and visited a comatose Bouazizi in the hospital. It was to no avail, however: Bouazizi died on January 4th, 2011, increasing popular support for the uprising. President Ben Ali stepped down on January 14th after security forces refused to fire on protestors.[121] Word of the Tunisian Uprising spread rapidly, inflamed in Egypt by a social media campaign that spread images of the body of a man beaten to death by police officers for posting a video of police corruption online.[122] On January 25th, rallies were held throughout Egypt. Authorities suppressed the demonstrators and took the entire nation offline, increasing popular support for the uprisings.[123] Hundreds of thousands of people converged on Cairo's Tahrir Square, and defied suppression until President Mubarak resigned on February 11th.[124] Popular uprisings then spread throughout the Arab world, notably to Yemen, Libya, Bahrain, Syria, Jordan, and Morocco. The results of these movements were mixed: protests in Bahrain were brutally suppressed by Saudi Forces, while resistance against Syrian President Bashar

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[120] Owen, *Arab Presidents for Life,* 176.
[121] James L. Gelvin, *The Arab Uprisings: What Everyone Needs to Know*, 2nd Ed. (Oxford: Oxford University Press, 2015), 27.
[122] Phillip Howard and Muzammil Hussain, *Democracy's Fourth Wave? Digital Media and the Arab Spring* (Oxford: Oxford University Press, 2013), 28.
[123] Ibid., 74.
[124] Gelvin, *The Arab Uprisings,* 54.

Al-Assad descended into all-out civil war.[125] Monarchical Arab states, such as Morocco, Jordan, and Oman also experienced protests, but Monarchs were able to avoid deposition by making political concessions, such as increasing the power of legislatures or sacking unpopular officials.[126]

Were these uprisings a manifestation of a populist sentiment in the Arab World? Uriel Abulof's analysis provides a strong argument that they were. Abulof, in contrast to Kohn's more familiar division of civic and ethnic nationalism, begins by proposing a division that may be more useful for understanding the Arab uprisings: negative and positive nationalism. Negative nationalism "entails people's purposeful rejection of foreign rule," and can only exist when "a continuous collective Self" rejects being ruled by a "foreign Other."[127] Negative nationalism is ancient, and can be understood as a product of three main factors. First, negative nationalism arises from the existence of an imagined community, be it ethnic, religious, linguistic, territorial, etc. Second, negative nationalism employs an "us vs. them" discourse, with the "use of discursive strategies to differentiate [the Self]…from the Other." Finally, negative nationalism "transcends xenophobia through politicization." This point is complex; in short, Abulof argues that that heterogeneous groups can develop a collective identity through the Schmittian construction of an "Other" brought about by resistance to a foreign power. For example, the Greek city-states of

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[125] Asef Bayat, *Revolution without Revolutionaries: Making Sense of the Arab Spring* (Stanford, California: Stanford University Press, 2017), 11.
[126] Gelvin, *The Arab Uprisings,* 157-60.
[127] Uriel Abulof, "'The People Want(s) to Bring Down the Regime': (Positive) Nationalism as the Arab Spring's Revolution." *Nations and Nationalism* 21, no. 4 (2015): 658-680, 662.

Antiquity only came to see themselves as "Greek" when they collectively resisted Persian rule.[128]

The "meta-narrative of nationalism in the Arab world," Abulof argues, has focused "almost exclusively, on negative nationalism." This "meta-narrative" can be traced though the decline of the Ottoman Empire, during which "Arab intellectuals…began to reason their grievances against the Ottomans in national terms." The British and French colonization of former Ottoman territories after the First World War was similarly resisted "in national terms," but the arbitrary borders they left behind gave rise to two forms of negative nationalism: an ethnic-based, pan-Arab *qawmiyya* and a territorial, state-based *wataniyya*.[129] Arab politics throughout the 20th century is characterized as a conflict between *qawmiyya* and *wataniyya*, with *qawmiyya* being particularly salient after the end of the Second World War – the Presidency of Abdel Nasser in Egypt and the declaration of the short-lived United Arab Republic from 1958 to 1961 represented the "apex" of *qawmiyya*'s relevance. *Wataniyya*, on the other hand, became predominant after the Arab's defeat in the 1967 War with Israel and with the relative stability of Arab states, perhaps driven by the President-for-life system. The difference between the two, however, should not be overstated, as both *qawmiyya* and *wataniyya* have always shared a common resistance to foreign rule, be it "British, French, American, or Zionist".[130]

Positive nationalism, on the other hand, is a modern, novel development in Arab politics. Somewhat ostentatiously described as "the love child of Enlightenment and Romanticism," Abulof's positive

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[128] Abulof, "The People Want(s) to Bring Down the Regime," 663.
[129] Ibid., 668.
[130] Ibid., 668.

nationalism is founded on Rousseauian notions of the "general will," and emphasizes "the people" as the "prime political legitimator." Crucially, "the people," in Abulof's definition, is a "*collective*," rather than a "*collection,*" a definition that bears striking resemblance to the "antipluralism" that is so central to Muller's definition of populism.[131] Abulof notes that, up until the Arab Uprisings, examples of such "positive nationalism" were hard to come by in Arab political discourse. Arab constitutions and national anthems generally did not make reference to "the people," and when Arab leaders used the term, it was usually to position themselves as speaking on behalf of either their nation or the entire Arab world. The Palestinian anthem stands as a notable exception to this, but Abulof argues that the Palestinian "context of anti-colonial struggle against Zionism" makes it a case of negative nationalism.[132] The Arab uprisings, however, while having "much to do with negative nationalism," also contained an important shift to positive nationalism. Abulof focuses specifically on the common street chant "*Ash-sha'b yurīd isqāṭ an-niẓām,*" commonly translated as "the people want to bring down the regime," which originated in Tunisia but was also used in Egypt, Syria, Libya, and Yemen. In addition to the chant's obvious significance as an open expression of popular dissent against authoritarian regimes, Abulof argues that errors in translation have disguised even more significant meanings. Specifically, he argues that the common English translation "the people *want* to bring down the regime" is incorrect, and that the actual Arabic chant entails a singular "people" and is therefore more accurately translated as "the people *wants* to bring down the regime."[133] Slogans such as "one hand, one society, one demand" and "the people want a president who does not die

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[131] Abulof, "The People Want(s) to Bring Down the Regime," 664.
[132] Ibid., 671.
[133] Ibid., 673.

his hair!" were also used in the Egyptian uprising, again signifying the construction of a singular "people."[134] Given that "the edifice of peoplehood is co-constituted though ongoing discourse," the emergence though a popular speech-act of a singular "people" is enormously significant, and represents a re-orientation of Arab politics in a more positive nationalist direction. For example, in a 2012 address to a crowd in Tahrir Square, President-Elect Mohammed Morsi remarked:

> I came to talk to you today, because I believe that you are the source of power and legitimacy. There is no person, party, institution or authority over or above the will of the people…You are the source of power. You are the owners of the will. You grant power to whomsoever you choose, and you withdraw power from whomsoever you choose.[135]

If the Arab uprisings represent a fundamental shift in Arab politics towards Abulof's positive nationalism, should we consider them to be analogous to the Western populist wave? In my discussion of the latter, I identified three broad contributing factors: economic frustration, a desire to reform the political system to better represent "the people," and a perceived erosion of cultural/national identity. This final section will compare the Arab Uprisings to the Western populist wave via these three factors, and seek to identify a few key similarities and differences between them.

Primarily, as noted in my discussion of the Arab world prior to the outbreak of the uprisings, economic problems were present throughout Arab society and most prominent in the states that experienced the largest expressions of popular resistance. Although directly comparing the highly developed, industrialized Western

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[134] Muller, *What is Populism,* 69.
[135] Abulof, "The People Want(s) to Bring Down the Regime," 674.

economies with the less developed and often resource-dependent economies of the Middle East is difficult, it is reasonable to conclude that the decline in the average person's economic situation in both regions was a major driver of discontent. In particular, stagnant wage growth, high unemployment (especially among young people), the rising cost of living, and high levels of economic inequality plagued many countries in the region. Further, austerity measures introduced in some countries, such as Tunisia, to deal with rising level of foreign debt exacerbated existing socio-economic problems. Frustrations with poor economic conditions are, of course, not themselves proof of populism and are capable of being expressed in numerous other ways. The economic situations in both regions do, however, present an interesting overlap in the causes of popular frustration. Additionally, as Muller notes, populist economic discourses tend to embody the producerist feeling that elites are leeching off the productivity of the people.[136] Since the Arab Uprisings were in part a reaction to economic nepotism and corruption among ruling elites, [137] it is thus safe to conclude that the Arab Uprisings did contain, to some extent, the producerist aspect of populism.

The second aspect of Western populism identified above is a desire to return political power to the people from the elites who have ostensibly usurped it. In democratic Western states, this usually takes the form of opposition to lawmakers who are seen as being in the pocket of special interests, technocratic political elites, or intra-state political projects like the European Union. It is important to recognize that participants in the Arab uprisings also called for political power to be transferred to

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[136] Muller, *What is Populism,* 23.

[137] Gilbert Achcar, *The People Want: A Radical Exploration of the Arab Uprisings* (Berkeley, California: University of California Press, 2013), 71-74.

the people from the elites, but this is not by itself proof that they were a populist movement. It should additionally be noted that the Arab uprisings contained diverse participants including liberals, leftists, and Islamists,[138] and lacked a charismatic leader or party who could articulate the populist "moral imagination." It is also essential to recognize that the grievances of the Arab protestors were much more severe, and they were resisting genuinely despotic rule rather than merely "out of touch" elected officials. Therefore, while the Arab uprisings may have advocated for "the people" against autocratic elites, more evidence of the populist moral imagination would be required to confidently describe them as populist.[139]

Finally, populism in the West, at least of the right-wing and nationalist variety, is a response to demographic and cultural changes that have caused perceptions of an eroding national/cultural identity. This is an incredibly complex subject, and while the Arab world is by no means immune from the impacts of globalization and migration, suffice it to say that this is a significant point of divergence between the Arab and Western experience of populism. It is important to note that while identitarian feelings are not a necessary condition of populism – indeed, they are completely absent from movements such as Occupy Wall Street – they do occupy a disproportionate space in Western populist movements, thereby making direct comparisons with the Arab uprisings problematic. The Arab uprisings articulated a desire to shift the political order within the existing cultural framework, rather than a desire to fundamentally alter or restore some perceived

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[138] Bayat, *Revolution without Revolutionaries,* 147-51.
[139] It is for this reason that I tend to scoff at claims that leaders like Xi Jinping or Mohamed bin Salman could ever be populists – there is simply no evidence of them articulating the specific "moralistic imagination of politics" that Muller describes.

sense of national/cultural identity. Therefore, an Egyptian in Tahrir Square marching against the regime may very well share feelings of economic desperation and political alienation with supporters of Donald Trump or Brexit, but we should hesitate to directly compare the two. As Muller notes, it is essential to be able to distinguish the *populist* from the merely *popular*.[140]

The waves of protest that spread throughout the Arab world in 2010 responded to the legacy of colonization and authoritarianism, demanding dignity, democracy, and economic reform. In doing so, they made political claims on behalf of "the people," a fact that invites comparison between the Uprisings and a wave of populist movements in the West. Populism, however, is more than just an ideology that advocates for "the people" and opposes "the elites." It is a specific type of claim that embodies a particular moral attitude about politics. While there are no doubt linkages between some of the underlying economic and structural factors, more proof would be needed to establish that the Arab Uprisings embodied the specific moral imagination that makes a movement populist, and not merely popular. Therefore, when discussing global political unrest, we should recognize common causes of frustration and potency of "people power" in political movements, but stop short of describing the Arab Uprisings as a part of a global populist wave.

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[140] Muller, *What is Populism,* 101.

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Politics of Violence in the Second Intifada
An Analysis of Social Conditions and Suicide Campaigns

Alexa Leigh Lewis

Although Simon Mabon, in *Saudi Arabia and Iran: Power and Rivalry in the Middle East*, focusses his discussion on the effect of national identity on relations between Saudi Arabia and Iran, normative assumptions from his findings may be transposed onto the suicide campaign of the Palestinian Intifada. Mabon finds that social conditions, in addition to political processes, serve to motivate political actors to utilize political violence. As social conditions "frustrate important needs," analysis of these conditions is essential to understanding the psychological and societal processes that serve to drive actors to political violence.[141] Sustained deprivation of needs has a dehumanizing effect on an oppressed population, often resulting in feelings of helplessness that motivate actors to extreme actions. Mabon illustrates that "[d]ifficult life conditions make people feel insecure, ineffective, and not in control, with their sense of self diminished."[142] Political violence becomes logical as it may appear to be the only method of initiating political change. Failures in the democratic processes may also motivate oppressed populations to political violence besides the influence of social conditions. When faced with sustained oppression, groups turn to the democratic arena to address their grievances; however, if this method ignores or fails to

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[141] Ervin Staub and Daniel Bar-Tal, "Genocide, Mass Killing, and Intractable Conflict: Roots, Evolution, Prevention, and Reconciliation," in David O. Sears, Leonie Huddy, and Robert Jervis (eds.), *Oxford Handbook of Political Psychology* (Oxford University Press, 2003): 714, quoted in Simon Mabon*, Saudi Arabia and Iran: Power and Rivalry in the Middle East* (New York: I.B. Tauris, 2013): 108.
[142] Staub and Bar-Tal, "Genocide, Mass Killing, and Intractable Conflict," 715, in Mabon, *Saudi Arabia and Iran*, 110.

alleviate the oppressive conditions, actors may seek relief through illegitimate actions. Mabon's assertion that social conditions and the perceived failure of the democratic processes motivate actors to resort to political violence, therefore, provides some insight into why Palestinian non-state actors chose to resort to suicide bombing in response to the prolonged Israeli occupation.

This analysis seeks to illustrate the social logic of suicide terrorism through investigation of how both social conditions and democratic failures may contribute to these campaigns. As both oppressive social conditions and a perceived failure of democratic processes were both present prior to the Al-Aqsa Intifada, this investigation asserts these conditions served to motivate Palestinian actors to utilize suicide terrorism as a means of resistance against Israeli occupation. A comprehensive literature review will provide a basis for this analysis, as most academic literature on suicide bombing illustrates the strategic logic of suicide terrorism. Following this review, the historical context of the Israeli-Palestinian conflict will be illustrated in a short synopsis to express the reality of social conditions of Palestinians living under the Israeli government. In addition to oppressive social conditions, Mabon finds that the failures of the democratic process may provide additional motivations for political violence, which necessitates a brief discussion of the Oslo Peace Process and the influence of its failures. Finally, this analysis will investigate the campaign of suicide bombings that was conducted by Palestinian actors in the Second Intifada through analysis of data collected by renowned international security affairs professor, Robert Pape. This dataset will be used to illustrate the social logic of suicide terrorism in response to both oppressive social conditions and democratic failures.

Before analyzing the relevant literature, it is pertinent to address the dominant shortcomings in Western writings on suicide terrorism to establish why continued analysis is necessary. This topic is discussed by Talal Asad in a series of lectures which have culminated into perhaps one of the most influential works on suicide terrorism in recent years: *On Suicide Bombing*. In this book, Asad illustrates the inherently complex nature of suicide terrorism; he argues that "[m]otives in general are more complicated than is popularly supposed… the motives of suicide bombers in particular are inevitably fictions that justify our responses but that we cannot verify."[143] Asad highlights the unique problem of suicide bombing; global audiences to suicide terrorism have typically justified the actions of suicide bombers through the assumption that they deem others unworthy of living. Asad, however, condemns this assertion, attributing this justification to liberals who assume that "they are different because they are morally advanced."[144] In light of the intrinsic complexities of suicide attacks and the failure of Western audiences to comprehend their motivations, continued analysis of suicide terrorism is warranted to properly understand why this phenomenon occurs.

Unlike analysis of atrocities in the Western world, Asad finds that literature on Islamic terrorism is typically attributed to the perceived violent nature of Islam, in addition to a hatred of Western democracy. Asad assures us that the West has historically defined Islam as "a totalitarian religious tradition hostile to democratic politics, [which] is seen to be irrational as well as being an international threat."[145] Asad attributes the belief of Islamic

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[143] Talal Asad, *On Suicide Bombing* (New York: Columbia University Press, 2007), 3.
[144] Ibid., 4.
[145] Ibid., 8.

violence to a misinterpretation of the term *jihad*, which has been defined in Western media as the "Islamic concept of holy war against the infidel."[146] However, Asad illustrates that *jihad* refers to the notion of "individual religious duty [or] *fard al-'ayn*."[147] Although not a central theme in Islamic thought, Western histories of Islam have interpreted *jihadism* as a central tenant of the Islamic faith. Suicide terrorism, in addition to other forms of political violence, is therefore attributed to acts of war against the 'enemies' of Islam. However, Western scholarship has also misinterpreted the importance of *jihadism* in Islamic tradition, as there is a lack of consensus within Islam on "the virtue of religious warfare."[148] Islamic scholarship illustrates that *jihadism* should only be employed if necessitated by religious oppression.[149] Evidence of this is illustrated by colonial-era definitions of *jihad,* which assert that "Muslims living under a non-Muslim government were not to undertake *jihad* as long as they were able to practice Islam and allowed to maintain its central institutions."[150] Like Asad, in Stephen Zunes' work, "Unarmed Resistance in the Middle East and North Africa," he challenges the assertion that an intrinsic character of Islam makes its followers more prone to violence. Scholarly literature that identifies a violent predisposition in the Islamic faith typically asserts that the Middle East has been subject to more violence than other regions of the world; Zunes, however, illustrates that both religious extremism and internal instability primarily originates due to "foreign

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[146] Ibid., 9.

[147] Asad, *On Suicide Bombing*, 12.

[148] Ibid., 11.

[149] Shaykh Muhammad Hisham Kabbani and Shaykh Seraj Hendricks, "Jihad: A misunderstood concept from Islam—What Jihad is, and is not," *the Islamic Supreme Court of America*: 10, accessed January 24, 2018. http://islamicsupremecouncil.org/understanding-islam/legal-rulings/5-jihad-a-misunderstood-concept-from-islam.html

[150] Asad, *On Suicide Bombing*, 13.

invaders and authoritarian regimes."[151] Despite the violence associated with the concept of *jihad* by non-Muslims, both Asad and Zunes assert that there is no inherently violent predisposition in Islamic faith.

Before analysis on suicide bombing can begin, suicide terrorism as a phenomenon must first be defined and understood. Suicide terrorism has emerged as a means of coercion and grown rapidly since Hezbollah's first campaign of suicide attacks in the 1980s. In her work *Suicide Terrorism*, Ami Pedahzur provides a minimalistic definition, which identifies the phenomenon as "a diversity of actions that necessitate the death of the terrorist in order to ensure the success of the action."[152] Although suicide terrorism employs a form of political violence that targets civilians, Pedahzur illustrates that suicide terrorism is not a random action. It is a deliberate "product of an organization's political strategy after it has defined its goals, [and] clarified the options it has in order to achieve these [means]."[153] Although suicide terrorism alludes to moral justifications, it is necessary to understand the explanations employed by groups who choose to utilize this method of political violence.

As Pedahzur demonstrates, resistance organizations utilize suicide campaigns because they achieve political change.[154] Suicide attacks serve to deter an otherwise predominant state power, which prohibits all other forms of civil resistance. Although political change serves as the primary motivation to non-state actors, two further

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[151] Stephen Zunes, "Unarmed Resistance in the Middle East and North Africa," in *Nonviolent Social Movements: A Geographical Perspective*, (Oxford: Blackwell Publishers, 1999): 41.
[152] Ami Pedahzur, *Suicide Terrorism* (Cambridge: Polity Press, 2005), 10.
[153] Ibid., 27.
[154] Ibid., 11.

characteristics of suicide attacks increase the likelihood of their employment: they are both effective and efficient. The weaponry employed by suicide terrorists is highly lethal, averaging 8.11 fatalities per attack.[155] Pedahzur finds that the most common form of suicide terrorism involves "the detonation of an explosives belt directly attached to the militant's body."[156] Furthermore, unlike deliberate attacks on government infrastructure or officials, suicide terrorism is most commonly directed at civilian populations, which creates an anxiety that "spreads through society… [and] has the potential to reduce the faith citizens have in the government's ability to protect them, and the latter becomes subject to persistent pressures to concede to terrorists' demands."[157] In addition to the lethality and persuasiveness of the attacks, Pedahzur also emphasizes its relative efficiency versus other methods; an organization employing suicide terrorism does not "lose more than one terrorist, unless one is speaking of an operation that is executed in several places at the same time."[158] These characteristics of suicide attacks, namely its ability to achieve political change, its effectiveness, and its efficiency, in conjunction with the desperation a repressive regime may inspire, serve to legitimize the use of suicide terrorism as a means of political coercion to resistance organizations. The reasoning behind utilization of suicide terrorism recalls Mabon's assertion, which demonstrates that tangible factors, such as social conditions and democratic failures, may motivate actors to employ political violence.

While Pedahzur illustrates the rationality of suicide terrorism as a means of resistance against internal

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[155] Pedahzur, *Suicide Terrorism,* 17.
[156] Ibid., 15.
[157] Ibid., 27-8.
[158] Ibid., 17.

oppression, Robert Pape notes the importance of its employment against foreign powers. In his work, *Dying to Win: the Strategic Logic of Suicide Terrorism*, Pape illustrates that desperation serves to convince populations that suicide terrorism must be employed as a last resort. Pape illustrates the role suicide terrorism plays in nationalistic campaigns, as this phenomenon has emerged almost exclusively in response to foreign occupation.[159] Defining occupation as "the exertion of political control over a territory by an outside group," Pape illustrates that suicide terrorism is a strategy of coercion used by oppressed forces to compel the occupying power to change its policy.[160] Pape says that foreign occupation is likely to result in violent forms of political coercion as it creates an:

> Extreme asymmetry between the strength of the occupier and the strength of the local community, [which] virtually rules out conventional military confrontation, because the occupied community no longer controls sufficient territory and resources to train, arm, or equip large military formations.[161]

When faced with an oppressive foreign power, Pape finds that the community may also justify suicide attacks as "the local community becomes so desperate that it resorts to suicide terrorism because many believe they will die anyway or because they are seeking revenge for those who have died."[162] Foreign occupation therefore creates a sentiment of necessity that serves to legitimize suicide terrorism in the eyes of its perpetrators and the community behind nationalistic campaigns.

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[159] Robert Pape, *Dying to Win: the Strategic Logic of Suicide Terrorism*, (New York: Random House Publishing, 2005), 22.
[160] Ibid., 83.
[161] Ibid., 92.
[162] Ibid., 58.

The Palestinian Second Intifada, or Al-Aqsa Intifada, provides a unique case study in which to apply the logic of both Asad and Pape to a previously unprecedented suicide campaign, which began following the Oslo Accords and extended into the new millennium before ending in 2003. This campaign meets the criteria set forth by Pape, as it is a nationalistic campaign fought against an occupying force to regain authority over its territory. The attacks, which total over ninety incidents between 2000 and 2003, come after decades of oppression by Israeli forces, in which dehumanizing conditions motivated organizations such as Hamas and Islamic Jihad to pursue suicide terrorism as a method of political coercion. In addition to meeting this requirement, the Al-Aqsa campaign also recalls Mabon's assertion, which claims that resistance groups often resort to political violence in light of both oppressive social conditions and the failure of democratic processes, thereby legitimizing the use of suicide terrorism in the eyes of its perpetrators. Informed by these assertions, this analysis therefore asserts that social conditions, created by deliberate actions of the Israeli government and the Israeli Defense Forces [IDF], in conjunction with the perceived failure of peaceful negotiations with the Oslo Accords, led Palestinian resistance groups to utilize suicide terrorism as a means of political coercion against the occupying power. In order to properly understand the circumstances that were viewed to necessitate the attacks of the Second Intifada, an overview of the Israeli-Palestinian conflict will be provided to situate the conflict in its proper historical context. Following this illustration, the social conditions of the Palestinian peoples living under Israeli occupation will be explored in depth, facilitated by both academic literature and ethnographic research collected by Peter Ackerman and Jack DuVall, with a particular focus on those conditions directly created by Israeli government policy. As the Oslo Peace Process was the culmination of democratic

efforts to resolve the tensions between the Israeli government and the Palestinian peoples, this process will be detailed through consultation with the central documents that arose from these negotiations in order to highlight how this legislation failed to address the goals of the Palestinian resistance. Finally, the campaign of suicide terrorism that emerged in the Second Intifada will be detailed through consultation of quantitative data collected by Pape which illustrate the dates, group affiliation of the perpetrators, means used, locations, and numbers of fatalities of each of the 92 suicide attacks that occurred in the Second Intifada. This data will be used to illustrate the unprecedented brutality of the suicide campaign, which may only be attributed to the era of sustained oppression by the Israeli government and the failures of the democratic process.

As the Second Intifada was the result of almost a century of rising tensions between the two peoples, some historical background is necessary to situate the Intifada in its temporal context, beginning with the Balfour Declaration.[163] At the time, the territory of Palestine was controlled by British forces under the British Mandate in Palestine, which was in effect from 1920 to 1948. The Balfour Declaration was an official endorsement by the British government to establish a Jewish national homeland in Palestine.[164] This move was opposed heavily by Palestinians, leading "a leadership of traditional Arab notables [to undertake] political and non-violent means to protest against what they understood as a violation of their own national rights."[165] These racial tensions would

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[163] Although the modern conflict emerged in 1917, tensions between these two groups date back to Biblical times, which arose due to both cultural and religious factors.

[164] Wendy Pearlman, "Palestine and the Arab Uprisings." In *Civil Resistance in the Arab Spring*, ed. Adam Roberts et al., (Oxford: Oxford University Press, 2016): 249.

[165] Pearlman, "Palestine and the Arab Uprisings," 249.

ultimately form into a series of protests, which "inspire[d] a new popular unity among the Palestinian Arab population."[166] Eight years later, Britain announced the end of the Palestinian Mandate. In Ackerman and DuVall's work, "The Intifada: Campaign for a Homeland," the authors illustrate that "the revelations of the Holocaust galvanized world support for a Jewish state."[167] In 1947, global support would result in the newly formed United Nations adopting a resolution that would partition the region into two states—"one for Palestinians and one for Jews."[168] Israel's declaration of statehood in 1948, despite the protest of the Palestinian peoples, not only threatened the sovereignty of Palestine, but Israel's Arab neighbors, which lead them to begin "surreptitious preparations to go to war."[169] In response to the arming of its Arab neighbors, Israel launched "a preemptive blitzkrieg and defeated them all—a triumph of arms that won the Golan Heights from Syria, the West Bank from Jordan, and the Gaza Strip from Egypt, along with several thousand Palestinians."[170] Despite the borders established by 1947 UN Partition Plan, the war led Israel to capture territory beyond their original boundaries, which is recognized to be a violation of international law under the 1907 Hague Convention.[171]

Ackerman and DuVall illustrate that, following the 1967 War, Israel began efforts to ensure the lives of

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[166] Ibid., 251.
[167] Peter Ackerman and Jack DuVall, "The *Intifada*: Campaign for a Homeland," in *A Force More Powerful: A Century of Nonviolent Conflict*, (New York: Palgrave Publishers, 200): 399.
[168] Ibid.
[169] Ibid., 400.
[170] Ibid.
[171] International Conferences (The Hague), *Hague Convention (IV) Respecting the Laws and Customs of War on Land and Its Regulations Concerning the Laws and Customs of War on Land,* 18 October 1907, available at: https://ihl-databases.icrc.org/ihl/INTRO/195 [accessed 6 February 2018], art. 42.

Palestinians would become intertwined with the Jewish state.[172] Although the newly established Palestinian Liberation Organization (PLO) did not recognize the authority of the Israeli state, Palestinians "earned their living in and paid taxes to the Jewish state."[173] Yet a shortage of arable land and economic strife made poverty a reality for most Palestinians despite the provisions afforded to them by the Oslo Accords. Furthermore, Palestinians did not just have to endure Israeli occupation, but aid in its expansion; Ackerman and DuVall find that frequently unemployed Palestinian laborers were employed to build Israeli settlements.[174] While Israeli citizens could move freely throughout the territory, Palestinian movement was heavily restricted by checkpoints, in which Palestinian peoples were routinely "treated like animals" as their bodies and property were subject to search and confiscation by Israeli authorities.[175] As illustrated, Palestinians were not only forced to watch the expansion of the Israeli occupation, but aid in building its infrastructure, all the while being subject to overt and unceasing government oppression.

In Ardi Imseis' article, "On the Fourth Geneva Convention and the Occupied Palestinian Territories," she shows how Israeli treatment of the Palestinian peoples violates international law; particularly, the Fourth Geneva Convention which was created to guarantee the rights of peoples living on occupied territories. This Convention outlines "the rights and duties of the occupying power (or belligerent occupant) and sets out the law of how civilian populations are to be treated while the occupying power

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[172] Ackerman and DuVall, "The *Intifada*," 400.
[173] Ibid.
[174] Ibid.
[175] Ibid., 403.

maintains effective control in the occupied territory."[176] Imseis finds that both the Israeli and international community have failed to uphold the Convention's requirements, resulting in "the wholesale violation of the human rights of the civilians living under Israeli military rule."[177] Immediately following the declaration of the state of Israel, its forces were empowered by the government's Defence (Emergency) Regulations, which allowed Israel to "'exercise legislative, judicial and executive powers over extensive spheres of life' of the roughly 170,000 Palestinian citizens of Israel, including the demolition of homes, imposition of curfews, collective punishment, deportation, and arbitrary arrest, search, and detention."[178] Furthermore, the Israeli government also employed policies which authorized "the willful killing of Palestinian civilians engaged in mass protests and popular marches against the occupation."[179] These policies, in conjunction with the sustained oppressive social conditions, would prevent large-scale Palestinian resistance until the outbreak of the First Intifada.

Palestinian frustration would ultimately lead to this movement — it was largely non-violent resistance in which the Palestinian peoples sought to 'shake-off' the Israeli occupation. The Intifada was sparked in December of 1987, when "an Israeli truck collided with laborers from Gaza, leaving dead and injured. Riots ensued, and the Israeli army's violent response helped them spread across the Gaza Strip and the West Bank."[180] Leaflets and popular committees were the most effective weapons utilized by

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[176] Ardi Imseis, "On the Fourth Geneva Convention and the Occupied Palestinian Territory," *Harvard International Law Journal 44*, no. 1 (2003): 66.
[177] Ibid., 68.
[178] Ibid., 78-9.
[179] Ibid., 107.
[180] Pearlman, "Palestine and the Arab Uprisings," 252.

Palestinian actors, in addition to boycotts of Israeli products and noncooperation protests. While Mary King, a leading scholar on Palestinian resistance, calculates that more than ninety-percent of the first eighteen months of the Intifada was nonviolent, violent attacks were utilized by resistance groups to convey their political message, mostly in the form of throwing stones and Molotov cocktails.[181] Despite the wave of popular resistance that occurred in this era, the First Intifada ultimately failed to achieve its political goals as it was met with a severe government crackdown. Israeli forces used "bullets, beatings, and tear gas to disperse demonstrations," resulting in the detainment of over fifty-thousand Palestinians.[182] While the Intifada did not manage to oust the Israeli occupation, the popular resistance movement did manage to move Israelis to "debate withdrawal from the Palestinian territories, encouraged the PLO to declare an independent state of Palestine next to Israel in 1988, and helped to bring about Palestinian attendance at the 1991 Madrid international peace conference."[183] And while the First Intifada did achieve a shift in international rhetoric on Israel and Palestine, the popular uprising failed to separate Palestinian livelihoods from the Israeli state.

The shift in international opinion on Palestine resulted in cooperation from the international community to achieve a political solution on the Israeli-Palestine conflict. Facilitated by both the United States and the former USSR at the 1991 Madrid Conference, international efforts were channeled into the Oslo Peace Process, which stretched through the 1990s and sought to solve the conflict between the two parties through political solutions. The 1993 *Declaration of Principles on Interim Self-Government*

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[181] Ibid., 253.
[182] Ibid., 253-4.
[183] Ibid., 253.

Arrangements (Oslo I) sought to "recognize their mutual legitimate and political rights, and [strived to create] a peaceful coexistence and mutual dignity and security."[184] This declaration established that following a brief interim period, Israel would withdraw from the occupied territories.[185] As illustrated by Article IX, however, the fate of Palestine was still in the hands of Israeli authorities as this document did not provide for Palestine statehood. The 1995 *Israeli-Palestinian Interim Agreement of the West Bank and the Gaza Strip* [Oslo II] largely reaffirmed the sentiments of Oslo I, and provided the details for the transfer of power to the Palestinian Authority, including the structure of the Palestinian Council, security arrangements, and mechanisms for cooperation between the two peoples.[186] Oslo II entered into force upon signing on 28 September 1995. With the signature of both the Israeli state and the PLO, the document sought to usher in a new era of peace for the two peoples. The Oslo Peace Process, however, failed to achieve this. Oppressive state action was exacerbated by the continued expansion of Jewish colonies on expropriated Palestinian land as shown in Figure 1.[187] With the deadline of the five-year interim period passing without Israeli withdrawing its forces from Palestinian territory, Palestinian resistance efforts turned to illegitimate political violence in the Second Intifada to achieve their demands.

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[184] United Nations General Assembly, *Declaration of Principles on Interim Self-Government Arrangements*, A/48/486, Washington, D.C.: 1993, https://peacemaker.un.org/israelopt-osloaccord93 (accessed Nov 27, 2017). Annex.

[185] Ibid., art. I.

[186] United Nations General Assembly [UNGA], *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, A/51/889, Washington, D.C.: 1995, https://peacemaker.un.org/israelopt-osloII95 (accessed Nov 27, 2017).

[187] UNGA, *Interim Agreement*, 105.

In the wake of the failure of the Oslo Peace Process, Israeli occupation of Palestinian territory continued to flourish through the expansion of both mandatory checkpoints and Jewish settlements, despite the promises made by the Israeli government. The perceived helplessness of the Palestinian people led to the outbreak of anti-Israel protests in both the West Bank and Gaza — the first stirrings of the Second Intifada. Unlike the first era of Palestinian resistance, this uprising was characterized by violence on both sides; however, as Wendy Pearlman illustrates, the violence of the Palestinian forces was insufficient to combat the technological capacity of the Israeli Defense Forces (IDF). She finds that "Palestinians threw rocks and Molotov cocktails at Israeli soldiers, who responded with tear gas, rubber bullets, and live ammunition. In the first days of unrest alone, Israeli troops reportedly fired a million shots—what a security official later dubbed 'a bullet for every child.'"[188] Although Palestinian attacks did result in gun violence against Israeli populations and buildings, the response of the IDF further illustrates the technological mismatch between the two peoples: "Israel shelled Palestinian neighborhoods, bulldozed homes and fields, and blocked movement with hundreds of new checkpoints."[189] Palestinian resistance efforts, as illustrated, failed to have any influence on Israeli occupation, which served to illustrate the necessity of employing suicide terrorism, an effective and efficient means of political coercion, to Palestinian resistance groups.

Unlike the peaceful grassroots resistance of the First Intifada, the Al-Aqsa Intifada was "an organized mobilization of military hardware and suicide bombers."[190]

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[188] Pearlman, "Palestine and the Arab Uprisings," 254.
[189] Pearlman, "Palestine and the Arab Uprisings," 254.
[190] Pedahzur, *Suicide Terrorism*, 62.

Inspired by the attacks of Hezbollah and other terrorist
organizations, Palestinian groups — such as Hamas and
Islamic Jihad — deemed that suicide campaigns were a
suitable means to achieve their political goals. Pedahzur
illustrates that "more than 60 per cent of the Palestinian
people supported the continuation of violent attacks on
Israel and 63 per cent maintained that Palestinian resistance
organizations should adopt Hezbollah methods."[191] Pape
finds that although suicide attacks had begun on Palestinian
territory in 1994, these attacks were only conducted at a
rate of three attacks per year; however, in the Al-Aqsa
Intifada the number of attacks per annum rose to over
twenty as illustrated by Figure 2.[192] And though these
attacks were premised upon the completion of a singular
goal — the liberation of Palestine — these attacks were
perpetrated by a variety of both Islamic and secular
organizations, as detailed in Figure 3. Pape's data illustrates
that the 92 attacks perpetrated by Palestinian groups lead to
the deaths of 595 victims, not including the deaths of the
suicide bombers.[193] This campaign primarily relied on belt
bombs strapped to the body of the suicide terrorist,
although car and truck bombs were also used to attack
targets. Unlike Hezbollah's original attacks against U.S.
and French barracks, the bombings of the Second Intifada
typically targeted civilians, as the data illustrates that malls,
markets, and buses were among the most popular locations
of the attacks. The suicide campaign of the Second Intifada
remains one of most the deadly campaigns of suicide
attacks in modern history, a previously unprecedented wave
of killing that shocked the globe. However, as illustrated
above, this campaign of terror was not random; rather, the
Al-Aqsa Intifada illustrates a carefully planned and
executed method of coercion with the goal of driving Israel

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[191] Ibid., 62.
[192] Pape, *Dying to Win*, 48.
[193] Pape, *Dying to Win*, 272-274.

out of Palestine. Suicide terrorism was deemed a necessary use of political violence due to oppressive social conditions and the failure of democratic processes, motivating Palestinian actors to target Jewish civilians to achieve their political goals.

As Mabon illustrates in his work, social conditions, in conjunction with perceived failures of the democratic process, motivate actors to resort to political violence. As found by both Asad and Zunes, much of the literature on suicide terrorism remains insufficient to explain the rise in suicide campaigns. Most literature on suicide bombings is premised upon a misconception of *jihad*, which leads to a tendency in Western scholarship to label Islam as an inherently violent religion. However, as Pape finds, suicide terrorism is most frequently found in nationalistic campaigns in a response to foreign occupation. Suicide terrorism, or the intentional detonation of explosives to kill not only oneself, but either military or civilian targets in order to achieve political change, is a strategic weapon, as it is both efficient and effective. The use of suicide terrorism by a nationalist movement seeking to liberate its people and territory is illustrated by the Second Intifada in which organizations such as Hamas and Islamic Jihad employed suicide terrorism as a means to escape Israeli occupation.

As illustrated by Pearlman, and by Ackerman and DuVall, the social conditions of the Israeli occupation made life not only difficult for Palestinians — but nearly unlivable. Although the First Intifada illustrated a grassroots resistance effort to 'shake-off' Israeli occupation, this movement was largely ineffective in removing the Israeli military from its territory. Faced with sustained occupation and the perceived failure of the Oslo Accords, Palestinian resistance groups turned to suicide terrorism to achieve their goals. The suicide attacks of the

Second Intifada illustrate one of the most deadly suicide campaigns in modern history. Killing over six hundred people, these attacks may be viewed as a desperate strategy of the Palestinian peoples to throw off Israeli oppression. Palestinian resistance groups employed suicide terrorism as an efficient and effective means to achieve their political goals in spite of the Israeli occupation. This suicide campaign was not motivated by religious hatred or banal evil, but instead by a perceived necessity to escape the oppression of the Israeli government. It must be said that this analysis does not seek to blame the Israeli government; rather, its purpose is to draw attention to the rationality of suicide terrorism in an attempt to humanize the study of these actors. Even though suicide terrorism evokes horror in most societies it is necessary to examine the motivating factors of atrocities such as these in order to prevent future generations from suffering the same fate.
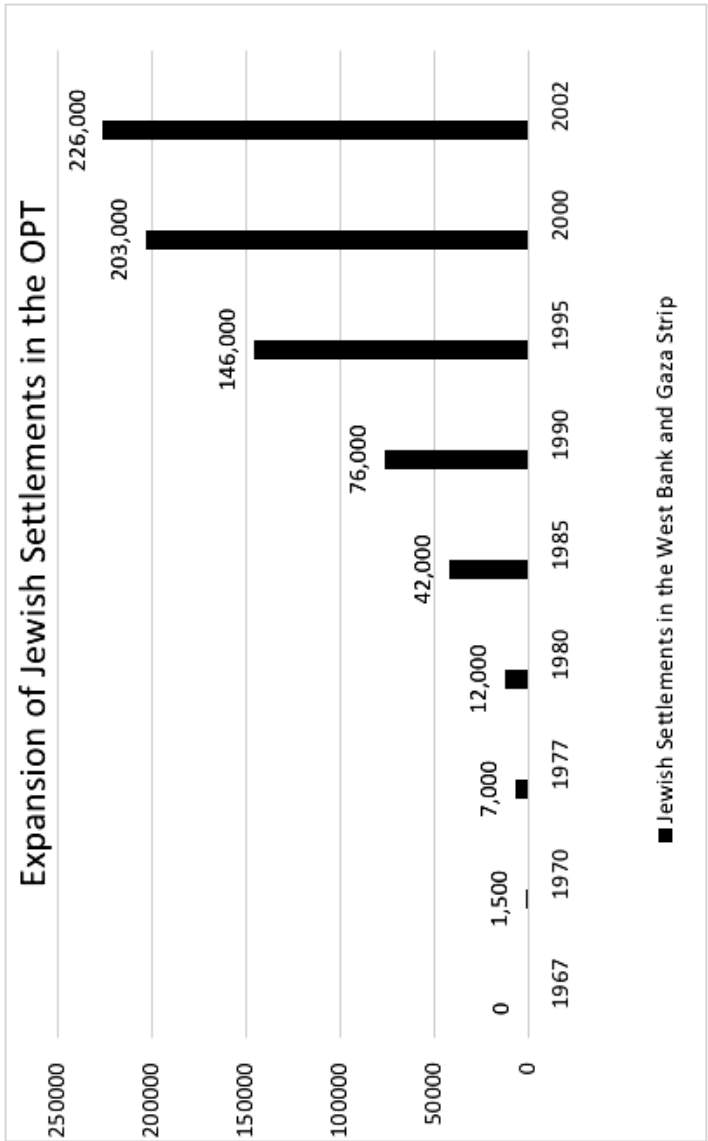
Figure 1: Expansion of Jewish Settlements in the OPT. Recreation of Robert Pape's findings. Robert Pape, "Jewish Settlers in West Bank and Gaza." *Dying to Win: the Strategic Logic of Suicide Terrorism* (2005): 49, Chart 1.
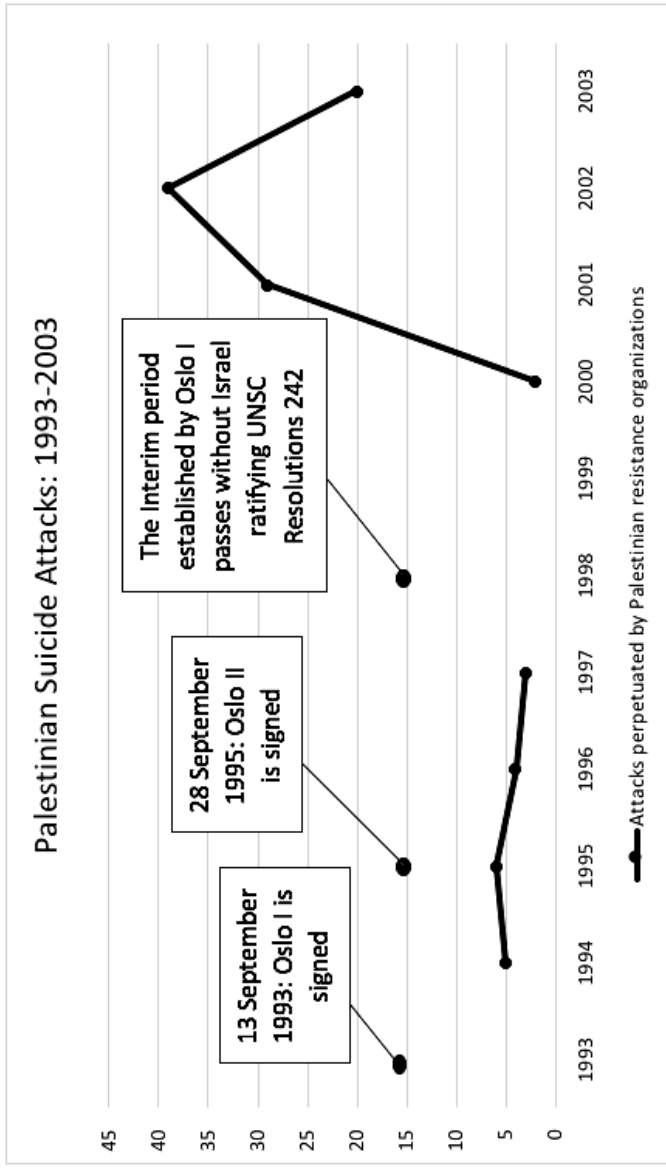
Figure 2: Palestinian Suicide Campaigns. Robert Pape, "Campaign #6, 7, 9, 10, & 17," *Dying to Win: the Strategic Logic of Suicide Terrorism* (2005), distributed by Random House Publishing Group.
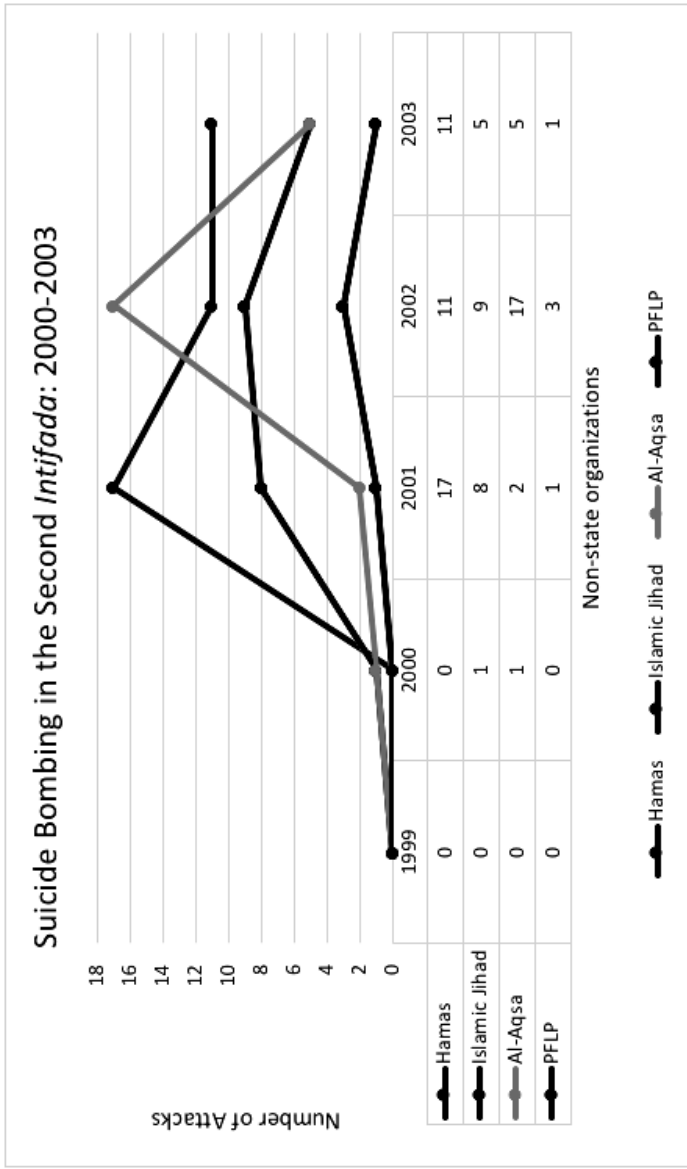
Figure 3: Suicide Bombing in the Second Intifada. Robert Pape, "Campaign #17," *Dying to Win: the Strategic Logic of Suicide Terrorism* (2005), distributed by Random House Publishing Group.

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My Kingdom for a Water Source
Security and Climate Change in the Middle East

Nick Noble

Climate change is not a hypothetical catastrophe to be averted. It is already affecting our world in tangible and profoundly damaging ways, and we must seek to mitigate the damage being done as it increases in intensity as time progresses. Water scarcity, among other ongoing symptoms of climate change, will have profound ramifications for the political environment of the Middle East, an already volatile and politically unstable region. This paper will explore and describe these potential consequences with a focus on water scarcity in terms of social stability, regional tensions, and the possibility of violent conflict. It seeks to answer this core question: Are governments in the Middle East currently employing appropriate climate change coping strategies in the context of the region's political landscape? As will be discussed, climate change issues have already manifested in Syria and, to a lesser extent, Egypt in the last decade, where water shortages and desertification have indirectly contributed to anti-government protests that devolved into increased government repression, civil and sectarian violence, and partial societal collapse.[194] These are patterns that will likely increase in intensity and frequency in future years. The current attitudes and actions (or lack thereof) of Middle Eastern countries concerning the ramifications of climate change are not conducive to problem-solving or long-term sustainability, and are too narrowly focused on national security interests that fail to consider wider regional dynamics. As such, there is a very real possibility

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[194] Scott Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," *Middle East Policy* 21, no.2 (Summer 2014): 140.

of social destabilization and/or conflict between sub-state actors in the region. Interstate conventional warfare purely over climate change-induced resource shortages is unlikely; violence is not expected to advance any government's national interests in the long term, and interstate cooperation is far more likely to yield positive results for all concerned parties. However, the myriad of existing tensions in the Middle East stands to be exacerbated by water disputes, and tensions heightened by the consequences of climate change risk being more easily tipped over the edge in an increasingly warm and dry region. This paper will be organized in the following manner: First, an overview will be provided of the environmental impacts of climate change in the Middle East, and what that means for local populations. Then both the adaptive strategies and capacities of Middle Eastern governments will be discussed. Next, cause-and-effect patterns concerning local economies, migration, and associated social effects in the context of climate change are considered, followed by the foreign relations environment of the Middle East and the associated consequences for climate change mitigation.

Climate change's primary observable trend is that of increased global average temperatures. From 1961 to 1990, the Middle East warmed by about 0.2°C per decade. [195] Warming has sped up since then: climate change models predict a change of +2.5-3.7°C (relative to the 1961-1990 period) in summers across the region by 2050.[196] Heat waves are predicted to increase in severity and frequency to

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[195] Katharina Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," *Regional Environmental Change* 17, no.6: 1625.

[196] Oli Brown and Alec Crawford, "Rising Temperatures, Rising Tensions: Climate change and the risk of violent conflict in the Middle East," *International Institute for sustainable Development* (2009): 8.

the point where high rates of mortality among the young, old, and sick can be expected, with worse effects in urban areas.[197] Record-shattering heat waves hit the Middle East in the summer of 2016, with a heat index of 60°C in parts of Iran and the UAE, and a temperature of 53.9°C recorded in Basra, Iraq. In Pakistan, health officials estimated about seven-hundred people had died of heat stress.[198] Even more alarmingly, those temperature records were broken again in the summer of 2017 with the heat index hitting 61°C in Ahvaz, Iraq.[199]

Atmospheric warming can affect other environmental factors, which can then have economic and political consequences. Such extreme heat can lead to droughts in the short term and permanent desertification in the long term. Not only is the Middle East getting warmer, it is getting drier, and has been doing so since the 1970s.[200] The Levant experienced severe, recurring droughts between 2005 and 2010. These droughts killed up to 85 percent of all Syrian livestock, the Jordanian cattle population fell from one million to six hundred thousand, the olive harvest fell by 60 percent, and Syria's wheat harvest was cut by 50 percent.[201] Thus, rising temperatures and related droughts

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[197] Jos Lelieveld et al, "Climate change and impacts in the Eastern Mediterranean and the Middle East," *Climate Change* 114, no.1 (2012): 682.

[198] Gavin Fernando, "The Middle East is in the middle of a hellish heatwave right now," *News.com,* August 15, 2016, http://www.news.com.au/technology/environment/climate-change/the-middle-east-is-in-the-middle-of-a-hellish-heatwave-right-now/news-story/faaff6a64926163839894e1c50f6376e.

[199] Doyle Rice, "It was 129 degrees in Iran Thursday, which is one of the Earth's hottest temperatures ever recorded," *USA Today,* June 29, 2017, https://www.usatoday.com/story/weather/2017/06/29/129-degrees-iran-earths-hottest-temperature-ever-recorded/440644001/.

[200] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 140.

[201] Brown and Crawford, "Rising Temperatures, Rising Tensions," 22.

negatively affect the economy. In Iraq, for example, the economy was estimated to have shrunk by 10-20 percent in the summer heat. [202]

Rising temperatures are also linked to reduced air quality: poor air quality is associated with dust particles (which will increase as the region gets warmer and drier) and pollution.[203] The particulate air pollution of human-induced emissions is increasing in the Middle East, and contributes to higher mortality rates. Air quality in several large cities like Tehran and Cairo has already severely degraded.[204] As climate change manifests itself from the air, so too from the sea: the global mean sea level has risen by ten to twenty centimetres in the last century, and the annual rate at which the water has risen in the past twenty years is about double the rate of the preceding eighty years.[205] Such rising waters will affect millions, especially given population growth along the coast. The coastal population of the Middle East and North Africa is already substantial (about sixty million in 2010) and is projected to increase to one hundred million by 2030. These populations will be affected by slow sea level rise, as well as flood damage caused by extreme weather events like storms, and saltwater intrusion into coastal aquifers used for drinking water. Sea level rise of one meter would affect 1.49 percent

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[202] Hugh Naylor, "An epic Middle East heat wave could be global warming's hellish curtain-raiser," *Washington Post,* August 10, 2016, https://www.washingtonpost.com/world/middle_east/an-epic-middle-east-heat-wave-could-be-global-warmings-hellish-curtain-raiser/2016/08/09/c8c717d4-5992-11e6-8b48-0cb344221131_story.html?utm_term=.f9b8eb9b9bf9.
[203] Lelieveld et al, "Climate change and impacts in the Eastern Mediterranean and the Middle East*,"* 668.
[204] Ibid., 682.
[205] "Sea Level Rise," National Geographic, accessed November 9, 2017, https://www.nationalgeographic.com/environment/global-warming/sea-level-rise/.

of the region's GDP, and Egypt would lose 13 percent of its national agricultural area.[206]

As concerning as all these problems are, the most potentially devastating effect of climate change for human life in the Middle East is decreasing freshwater availability. Relatively low rainfall means there is a heavy reliance on groundwater in the Middle East, and countries in the region are already using a very high percentage of available water resources.[207] In 1960, there was about 3,300 cubic meters of water available to the average citizen of Arab states each year. That amount is forecast to drop to 500 cubic meters per person by 2025.[208] Rapid population growth is exacerbating the issue, as water demand is anticipated to increase by nearly 50 percent between 2000 and 2025.[209] Forecasts of water availability do not bode well for this increase in demand: the UN predicts that, "per capita water resources may be reduced by two-thirds in Cyprus and Jordan, and by nearly half in Syria,"[210] and *National Communication*, an Israeli report on climate change, warns of a possible 60 percent decrease of 2000's water supply by 2100.[211] This desertification means that rivers are becoming less reliable for providing freshwater. The Khabour River, a major tributary of the Euphrates in Syria, dried up

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[206] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1628.

[207] Brown and Crawford, "Rising Temperatures, Rising Tensions," 12.

[208] Hussein A. Amery, "Water-Demand Management in the Arab Gulf States: Implications for Political Stability," in *Water security in the Middle East: essays in scientific and social cooperation*, ed. Jean Axelrad Cahan (London: Anthem Press, 2017), 71.

[209] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 140.

[210] Lelieveld et al, "Climate change and impacts in the Eastern Mediterranean and the Middle East*,"* 683.

[211] Brown and Crawford, "Rising Temperatures, Rising Tensions," 10.

completely for several years in the late 1990s.[212] Some experts predict the Euphrates could shrink by 30 percent and the Jordan by 80 percent by the end of the century.[213] Groundwater aquifers, another important source of water in the Middle East, also face an uncertain future. Several major underground springs have stopped flowing in Jordan since 1992,[214] and recharge rates of groundwater are varying and non-linear, making it difficult to predict how reliable a source they may be in the future. Specifically, rising sea levels pose the risk of saltwater contamination of aquifers such as that on the Gazan coast, supplying water to 1.5 million Palestinians.[215]

As prospects of water scarcity mitigation appear increasingly dim, Middle Eastern governments have begun to develop and implement adaptive policies.[216] Such policies vary in detail and in the government's capacity to implement because, in large part, of huge differences in national wealth per capita. For example, $1,400 USD in Yemen compared to more than $20,000 USD in the Arab Gulf States in 2013.[217] The region is also energy poor, and many ways of acquiring water are energy intensive. In some towns, up to 80 percent of the cost of water comes from the energy needed to pump water out of deep wells.[218] One of the starkest contrasts in adaptive capacities is between Israel and Palestine. Israel's policy prioritization

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[212] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 140.

[213] Brown and Crawford, "Rising Temperatures, Rising Tensions," 29.

[214] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 140.

[215] Brown and Crawford, "Rising Temperatures, Rising Tensions," 10.

[216] Eran Feitelson, Abdelrahman Tamimi, and Glad Rosenthal, "Climate Change and Security in the Israeli-Palestinian Context," *Journal of Peace Research* 49, no.1 (2012): 252.

[217] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1624.

[218] Brown and Crawford, "Rising Temperatures, Rising Tensions," 1.

of climate change, as well as its relative wealth, means it will better cope with climate-related issues in the near future compared to its neighbours. The extent to which Palestine will suffer in coming decades depends, in part, on how much water treatment aid they receive from Israel and the international community. Israel will likely retain sufficient freshwater stocks and water reclamation resources for both nations if current trends continue, but it is unknown to what extent Israel would be willing to assist Palestine. The Gaza Strip in particular, would require financial and technological help to build desalination facilities. The necessary cooperation between Israel, the Palestinian Authority, and the Gaza Strip's Hamas government is not currently forthcoming.[219]

Desalination is further a potential solution for the region's water problems, but it is expensive and energy-intensive. Only the wealthier states in the Middle East, namely Israel and the oil-producing Gulf states, have the resources to make large-scale desalination possible. The Gulf States were the first countries in the Middle East to tap non-renewable water sources when demand outstripped supply in the 1970s. Since then, oil revenue has made it possible for these countries to invest heavily in desalination.[220] The Arab Gulf States consume more water per capita than the global average,[221] and the government of Kuwait estimates that the majority of the country's oil revenue will go to funding water desalination by 2050.[222] Citizens of Israel are the least likely of Middle Eastern countries to be tangibly affected by climate change in terms

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[219] Feitelson et al, "Climate Change and Security in the Israeli-Palestinian Context," 250.

[220] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 149.

[221] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1623.

[222] Amery, "Water-Demand Management in the Arab Gulf States,"76.

of water shortage due to Israel's extensive desalination program, which largely decouples urban water supply from climate change.[223] As such, water will be a key element in any political solution to the Israel-Palestine conflict. Currently, Israel believes desalinated seawater should be financed by Israel and Palestine independently. In contrast, the government of Palestine thinks Israel should rely on desalination and allow Palestine greater access to the aquifers while they still exist. Though Israel supplies more water to the West Bank than the minimum required by the Oslo Accords, governments officials say that Palestine needs to develop desalination facilities and should not expect water supplies to increase further.[224] This is a unique issue in the conflict because Israel can make meaningful concessions at no substantial cost to themselves.

The most basic strategy for adapting to decreasing water availability is conservation. To this end, the Gulf States have implemented public awareness programs that have helped to incentivize household water conservation.[225] Unfortunately, they are the exception to conservation efforts in the Middle East. Many Arab countries do not enforce laws consistently or effectively, largely due to the prevalence of corruption, which makes regulation very difficult. Some countries even have policies in place that are counter-productive. Syria's regime has incentivized farmers to grow more water-heavy crops like cotton and encourage food self-sufficiency in agrarian communities, decreasing incentive to conserve water.[226]

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[223] Feitelson et al, "Climate Change and Security in the Israeli-Palestinian Context," 254.
[224] Ibid., 250-252.
[225] Amery, "Water-Demand Management in the Arab Gulf States," 87.
[226] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 147-152.

One of the difficulties facing governments seeking to conserve water is the way that many people in the Middle East conceptualize water. In the Islamic faith, water is perceived as a gift from God to which all people have a sacred and inalienable right.[227] This presents difficulties in confronting the problem of water scarcity. Islamic teachings state that Mohammed discouraged the sale of water, and according to the Quran, water can only be sold for human consumption in small containers. It is forbidden to take ownership of natural freshwater sources.[228] Because of these beliefs, water remains heavily underpriced in many Islamic countries. Although there are economic complications, such as immense wealth inequality, that prevent water pricing from being raised without potentially disastrous implications, the current pricing fails to incentivize conservative water use. The Jordanian government has failed to price or regulate the pumping of groundwater, contributing to a culturally ingrained normative understanding that water is a "free resource." In countries where pricing for water does exist, enforcement and compliance is inconsistent. For example, the Syrian government tried to introduce fees for digging wells. Many rural wells in Syria are dug illegally as a result, because farmers believe they are entitled to water without fees, and the absence of control over the pumping from these wells has led to a severe decrease in the country's groundwater.[229] Water scarcity needs to be addressed by populations as a whole, not just policymakers.

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[227] Francesca de Châtel, "Perceptions of Water in the Middle East: The Role of Religion, Politics and Technology in Concealing the Growing Water Scarcity," in *Water Resources in the Middle East: Israel-Palestinian Water Issues — From Conflict to Cooperation*, ed.s Hillel Shuval and Hassan Dweik (Berlin: Springer, 2007), 55.

[228] J.A. Allan, *The Middle East Water Question: Hydropolitics and the Global Economy* (London: I.B. Tauris, 2002), 113.

[229] De Châtel, "Perceptions of Water in the Middle East," 55.

Unfortunately, a lack of awareness and education means that mobilizing societies is extremely difficult.

The effects that climate change and its associated symptoms are having on agriculture in the Middle East poses a serious threat of creating ripple effects to the detriment of societies and security in the region. The Levant and the Nile Delta especially are highly economically dependent on agriculture.[230] Agriculture uses much of the Middle East's water: 84 percent of all water demand in the Levant comes from agriculture,[231] 70 percent of which is rain-fed.[232] Thus agriculture in the Middle East is highly vulnerable to changes in precipitation, with associated implications for food security. Climate change is affecting the timing and frequency of rains, causing agricultural problems such as increased evaporation rates, reduced soil moisture, and desertification.[233] In addition, many farmers intentionally factor seasonal floods into their irrigation practices, building canal systems that divert water from floodplains into agricultural areas. Climate change is making flooding more irregular and unpredictable, damaging these farmers' abilities to rely on irrigation for keeping their land fertile. Floodplains are also used as grazing lands for livestock, and the unreliability of growth patterns in these areas causes problems for herders.[234]

Due to the importance of agriculture in Middle Eastern economies, any implications on farmland and farmers affect societies as a whole. Similar to global trends,

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[230] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1623.
[231] Brown and Crawford, "Rising Temperatures, Rising Tensions," 22.
[232] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1623.
[233] Brown and Crawford, "Rising Temperatures, Rising Tensions," 10.
[234] Douglas L. Johnson, "Nomadism and Desertification in Africa and the Middle East," *Geojournal* 31, no.1 (September 1993): 55.

urbanization, mostly in the form of internal migration, is increasing throughout the Middle East,[235] and this trend will likely continue due to the adverse effects of climate change on rural populations that compel them to migrate into cities. Urbanization is leading governments to reallocate water reserves from agrarian to urban areas, and this is being met with resistance by farmers. For example, among Jordanian farmers there is substantial resentment toward urbanites; farmers claim people in Amman are "building swimming pools while we are being told to use less water." [236] Protests occurred in 2011 when water was pumped away from the Wadi Mujib reservoir to Amman for household use, instead of being allocated to local farms for irrigation. Syria also saw protests in 2011 by farmers upset by unlawful water use by wealthy elites. This would contribute to popular unrest that unravelled into the civil war.[237] Although agriculture is still the dominant employer and is a large economic sector (not to mention the importance of domestic food security), the share of GDP coming from agriculture is declining in most countries in the Levant, making it more difficult for governments to justify the steady allocation of water to rural areas.[238] Tensions between farmers and governments will continue, and quite possibly increase, as water is re-allocated to supply growing urban populations.

Migration due to water scarcity caused in part by climate change is already an observable trend in the Middle East, often driven by the desertification of farmland and the subsequent displacement of those who rely on it. Before the Arab Spring, about 1.5 million rural Syrians migrated to the

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[235] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1633.
[236] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 148.
[237] Ibid.
[238] Ibid.

cities looking for employment after their farms were destroyed by drought.[239] Rural migrants to cities tend to be poor, and more exposed to risks like overcrowding, poor water quality, and poor sanitation.[240] Further, climate change increases tensions between refugee populations and the host city's native population, as scarcity of water and other resources can encourage resentment, potentially leading to social unrest. Jordan is an especially interesting case when considering the implications of present and future waves of climate migration. Receiving the least rain of any country in the Levant, Jordan is likely looking at the worst effects of climate change in the Middle East, second only to Yemen.[241] For every 1,000 inhabitants of Jordan, 89 are refugees – the second highest proportion in the world.[242] Jordan itself, however, has never suffered from a major crisis of internal displacement. Droughts and water scarcity will drive farmers and their families into cities looking for work. Unemployment in Jordan's cities is already at 18 percent,[243] and the increased competition presented by the internal migrants could very well lead to resentment and civil unrest. Any social and/or political instability in Jordan will have substantial implications for its neighbours, as the country has long been a destination for refugees from Syria, Palestine, and Iraq. These refugees

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[239] "Syria's Civil War Explained from the Beginning," *Al Jazeera,* October 1, 2017, http://www.aljazeera.com/news/2016/05/syria-civil-war-explained-160505084119966.html.

[240] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1633.

[241] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 141.

[242] "UNHCR Jordan Factsheet - June 2017," *Reliefweb,* accessed February 9, 2018, https://reliefweb.int/report/jordan/unhcr-jordan-factsheet-june-2017.

[243] "Jordan Unemployment Rate," *Trading Economics,* accessed November 10, 2017, https://tradingeconomics.com/jordan/unemployment-rate.

could be forced back to their countries of origin in the event of instability, leading to its spread throughout the region.[244] Lebanon is another traditional haven for refugees with a large agricultural sector and could face a similar situation – though the effects will likely be less impactful in the near future as the country gets far more rain than does Jordan.[245]

The context surrounding climate refugee movement means that the rights of individual refugees are often overlooked. Human rights protection is inevitably weak in resource shortage contexts, and emergency conditions like drought and famine limit the application of human rights laws. Governments have an implicit mandate to act expediently and at their discretion, and ends-oriented relief tends to be the primary goal of emergency regimes, often at the expense of individuals.[246] Not only will this mean states are more likely to infringe on human rights, the international community is more likely to allow some leniency, particularly in the context of advanced climate change. It is even more difficult to enforce human rights protection when the hardest-hit individuals are the poorest, and climate change is primarily affecting the earth's least wealthy inhabitants. Impoverished populations are less capable of lobbying for government or international action, and are less likely to be well equipped to adapt to or even understand the implications of climate change in the first place.[247]

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[244] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 151.

[245] Brown and Crawford, "Rising Temperatures, Rising Tensions," 8.

[246] Steven Humphreys, "Introduction: human rights and climate change," in *Human Rights and Climate Change*, ed. Steven Humphreys (Cambridge: Cambridge University Press, 2010), 6.

[247] Ibid., 1.

Reliable water access is part of the social contract between ruling and working classes that maintains social order in many Arab countries like Jordan, Yemen, Syria, and Morocco.[248] Gulf States have had no choice but to heavily subsidize water for their middle and working classes. Otherwise, they risk alienation of their native populations, who are highly segregated from the ruling families.[249] Similarly, many of the social and political elites in Jordan owe their status to ownership of water and land resources, despite Quranic condemnation of such ownership. In the past, the Jordanian elites have been a major supporting factor for the monarchy.[250] In the event that these resources dry up, this support could weaken, creating substantial instability in the social hierarchy, and by extent the governing structure of the country. The general availability of vital resources like food and water are often intractably tied to popular perceptions of the state. For example, food shortages in Syria – and the government's failure to mitigate the drought of 2006-2010 – likely contributed to the civil unrest in the lead up to the Arab Spring.[251] The political bargains between ruling classes and the general populations of Middle Eastern countries risks destabilization due to shortages of critical resources, particularly if elites with political connections

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[248] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 153.

[249] Jean Axelrad Cahan, "Water Scarcity in the Middle East: A Role for the Social Sciences and Humanities," in *Water security in the Middle East: essays in scientific and social cooperation*, ed. Jean Axelrad Cahan (London: Anthem Press, 2017), 10.

[250] Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 153.

[251] Waha et al, "Climate change impacts in the Middle East and Northern Africa (MENA) region," 1635; Greenwood, "Water Insecurity, Climate Change, and Governance in the Arab World," 150.

continue to use water freely without consequence, causing resentment among the general population.

A realist perspective would identify a causal relation between interstate conflict and resource shortages. Water, being the most important resource to human life second only to oxygen, should, according to realist theory, create violent conflict when there is not enough of it to go around. It was believed by some scholars that water would become the dominant source of conflict by the 1990s, but this did not turn out to be the case.[252] As states become more interdependent, war becomes less useful in actually advancing state interests. Water has rarely, if ever, been a lone *casus belli*, but it certainly exacerbates tensions. Thus far there seems to be no causal link between water scarcity and interstate conflict,[253] but it is not impossible – the Middle East faces the possibility of water shortages worse than ever before. At present, prospects for cooperation in coping with the effects of climate change are low due to all aspects of Middle Eastern politics being inherently security-oriented, with hard power coming before all other considerations.[254] The current prevalence of conflict means that armed forces are often a spending priority, consequentially minimizing mobilization against climate change and desertification. In order to mitigate the effects of climate change, states in the Middle East will need to overcome omnipresent distrust between neighbours in the

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[252] Mostafa Dolatyar and Tim Gray, *Water Politics in the Middle East: A Context for Conflict or Co-operation?* (New York: St Martin's Press, 2000), 18-21.

[253] Patrice C. McMahon, "Cooperation Rules: Insights on Water and Conflict From International Relations," in *Water security in the Middle East: essays in scientific and social cooperation*, ed. Jean Axelrad Cahan (London: Anthem Press, 2017), 24-28.

[254] Feitelson et al, "Climate Change and Security in the Israeli-Palestinian Context," 253.

region which makes collaboration at the government level very difficult.[255]

Climate change places additional pressure on state actors to secure resources, and rivers become an especially valuable asset in the context of decreasing water supplies. Heavy conflict in the last century has badly reduced the Middle East's ability to cope with climate change.[256] The legacy of conflict has created an "island mentality" which discourages cooperation between countries. Existing peace agreements may become untenable as water shortage leads to conflict (armed or otherwise), and securitization dialogue can turn water into a leverage mechanism in disputes.[257] The militarization of water has serious implications for riparian (river-bordering) states in the Middle East, particularly when rivers are one of the primary sources of fresh water. Relations between countries that share a river border have always been affected by riparian concerns, particularly when the upstream or downstream positioning of states creates a power imbalance. The role that riparian concerns play in international relations is growing in importance as demand for water continues to outstrip supply in the Middle East.

States that lie downstream are always far more willing to sign water agreements than are their upstream neighbours. For example, Syria and Iraq were eager to sign the Convention on the Law of the Non-Navigational Uses of International Watercourses, but Turkey, whose mountain lakes and meltwater feed the Tigris and Euphrates Rivers,

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[255] Brown and Crawford, "Rising Temperatures, Rising Tensions," 15.
[256] Ibid., 2.
[257] David P. Forsythe, "Water and Politics in the Tigris-Euphrates Basin: Hope for Negative Learning?" in *Water security in the Middle East: essays in scientific and social cooperation*, ed. Jean Axelrad Cahan (London: Anthem Press, 2017), 171.

spoke out against it in 1997.[258] In the early 1990s, Turkey had adopted the principle of "absolute resource sovereignty," which dictates that it is under no obligation to consider the impacts on other countries when planning development, including dams. Then-Prime Minister Suleyman Demirel stated, "Neither Syria nor Iraq can lay claim to Turkey's rivers any more than Ankara could claim their oil. This is a matter of sovereignty. We can do anything we like."[259] Damming and water concerns have also fuelled tensions in the Tigris-Euphrates basin between Iraq and Syria. Iraq almost declared war on Syria in 1975 when Syria built a dam that threatened to cut off substantial water flow to Iraq during construction. Regional intervention and international mediation averted a crisis when Syria agreed to slow construction so water flow interruption would never exceed 40 percent.[260]

The Jordan River is only 93 kilometres long, but it is a vital lifeline to Jordan, Israel, Syria, and Palestine.[261] Israel's position upstream from its rival Jordan and the Palestinian West Bank, and Syria and Lebanon's position upstream of Israel in turn, make it a potential flashpoint for water conflict. Conflict over the Jordan River in the modern era dates back to the mid-20th century. In April 1967, Israel sent air strikes deep into Syrian territory in response to Syrian plans to build a river diversion that would have diverted the Jordan River into a dam, taking an estimated 50 percent of Israel's freshwater supply. Israel considered this a violation of sovereign rights, and it was a major factor in the lead-up to the June 1967 War.[262] The Jordan

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[258] Forsythe, "Water and Politics in the Tigris-Euphrates Basin," 169.
[259] Dolatyar and Gray, *Water Politics in the Middle East*, 148.
[260] Forsythe, "Water and Politics in the Tigris-Euphrates Basin," 174.
[261] Pauline McNamara, "Climate Change, Regional Impacts: Climate Change in the Middle East," *Geographica Helvetica* 54, no.3 (1999): 143.
[262] Ibid.

River and the Mountain Aquifer were considered transboundary, shared water resources before 1967, but Israel asserted control over Palestinian access after the war and occupation. Palestinians desire return of riparian rights as a crucial element of independent Palestinian statehood, partially because they have little control over other sources of water.[263] Yet Israelis are concerned that granting total Palestinian statehood would allow Palestine to claim the water of the Mountain Aquifer for their exclusive use; for the present, Israel holds the keys to aquifer use as well as river use. Some Palestinians claim that Israeli wells dug next to shallower Palestinian wells divert the Palestinian wells' supply via local drainage. However, the Israelis claim that their wells go so deep that they tap a different water source entirely.[264] The Palestinians have no meaningful mechanism for pressing their claims or investigating the truth of the Israelis' defence. All of this is happening while the Gaza Strip cannot afford to build desalination infrastructure on the coast, and while the frequency of violence and destruction de-incentivizes external investment in infrastructure like desalination plants. Not only does Palestine lack the resources to pursue cost-heavy desalination programs, but communities in Palestine and Jordan on the upper Jordan River also try to avoid placing reliance on desalination plants where it places Israel in a position of power due to its upstream location.[265] International law does not recognize upstream countries as owning the downstream flow,[266] but inherent security concerns limit desalination as a solution due to water's increasingly securitized nature.

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[263] Dolatyar and Gray, *Water Politics in the Middle East*, 7-11.
[264] Ibid., 11.
[265] Feitelson et al, "Climate Change and Security in the Israeli-Palestinian Context," 252-253.
[266] Dolatyar and Gray, *Water Politics in the Middle East,* 8.

Egypt's reliance on the Nile River provides another example of riparian power imbalance, though in a different form due to Egypt's downstream location. Egypt has repeatedly rejected any kind of water sharing agreement with countries south of them that rely on water from the Nile. As Egypt has superior hard and soft power over countries like Sudan and Ethiopia, they can make unreasonable demands concerning use of the river with virtual impunity, even when agreements proposed by other Nile states would give them disproportionately high shares of water use. Egyptian officials dubiously promise they will cooperate with their upstream neighbours should the need arise, but will not commit to binding agreements.[267] Egypt's example bodes poorly for other potential water disagreements in the Middle East. In addition, it is one of the most likely contenders to be an exception to the unlikelihood of state conflict over water, due to it being a more powerful state at a disadvantageous position on downstream end of the Nile.

Although countries in the Middle East need to re-examine their relationships with their riparian neighbours going into the future, simply adopting a laissez-faire, completely un-securitized approach to river management is not an option. Failure on the part of governments to secure water resources can have disastrous consequences in unstable regions like the Middle East, where insurgent groups can use unsecured water to their advantage. Daesh sought dominance over waterways, indicated by maps of their zone of control that show them advancing first through river valleys during their initial offensive campaigns. Once in control of water resources, they used

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[267] Jenny R. Kehl, "Water Security in Transboundary Systems: Cooperation in Intractable Conflicts and the Nile System," in *Water security in the Middle East: essays in scientific and social cooperation*, ed. Jean Axelrad Cahan (London: Anthem Press, 2017), 63.

them as a punishment/reward system against civilians under their control — Daesh would release water to win favour over local villages, and flood areas where enemies were advancing for defensive purposes. They would also dam up water to pressure enemies or withhold water to extract financial tribute.[268] Although the securitized perception of water in the Middle East is problematic and an obstacle to problem solving, it is important that water resources remain firmly under the control and supervision of legitimate governments.

A normative shift towards the more equitable consumption of riparian resources will be required to address water shortages in the Middle East if conflict is to be averted. Past incidents of confrontation over rivers, as well as the current attitudes of regionally powerful countries like Israel, Egypt, and Turkey, demonstrate a security-over-all mentality in the Middle East regarding riparian sovereignty. Most upstream countries can manage their river resources, and by extension the river resources of downstream states, from a comfortable position due to hard power dominance. This means that weaker countries like Jordan and Syria are completely at the mercy of their more powerful neighbours, Israel and Turkey, particularly when the more powerful country holds the upstream position. Interstate conflict is unlikely in these situations because those weaker states stand no chance of advancing their interests through war, and instead must try to cooperate with often-unsympathetic rivals. This raises the question: How can countries at risk convince countries at less immediate risk to help them without incentive? The reality is that even when upstream countries do not need to worry about foreign military invasions, the security threat posed by the destabilization of neighbours is enormous. For example, by only taking their own interests in account,

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[268] Forsythe, "Water and Politics in the Tigris-Euphrates Basin," 176.

Turkey would risk causing further erosion of stability in the downstream states of Iraq and Syria by compromising their water supplies. This would have a ripple effect on regional stability due to issues like refugee movement, radicalization, and the decreased capacity of legitimate governments to keep sub-state actors (such as Daesh) in check. In an increasingly interconnected world, no country can act as an island unto itself indefinitely without consequence.

Climate change is heating up the Middle East, and drying up its water supplies at a time when population growth is causing water consumption and demand to skyrocket. Adapting to these problems requires political will and financial resources, which are unevenly possessed by Middle Eastern governments, and the states that do possess the needed resources are often at political loggerheads with one another and with the "have-not" states. Not only that, but the security-oriented political environment of the Middle East means that countries with water resources and desalination capabilities often withhold these necessities from other countries to maintain a political advantage. Water is at the centre of many societal pillars of the Middle East. The provision of water for little to no cost by the region's elites is, in many countries, an important source of social cohesion. Agriculture, the dominant consumer of water in the region, faces widespread collapse due to desertification. This would have a devastating effect on Middle Eastern economies and social stability as agrarian families are driven to desperation. Desperation breeds extremism, and the Middle East has been historically vulnerable to extremist groups. It must then be asked: will climate change force Middle Eastern countries to cooperate, or will entrenched political norms and patterns of conflict lead states to act in destructive self-interest? The states that stand to lose the most in the short

term, like Jordan and Palestine, have little chance of advancing their interests by engaging in conventional warfare over water resources with wealthier, more powerful states. However, those better-off countries such as Israel, Turkey, and Egypt have shown little interest in cooperating and providing meaningful aid if it means weakening their grip on absolute water sovereignty. Past examples within the Middle East's political environment suggest that many key states will remain passive – not actively engaging in armed conflict, but not taking sufficient action to adapt to climate change on a regional basis. The ripple effects of domestic instability easily metastasize into regional instability. The leaders of the Middle East will stand a better chance at coping with climate change if they adopt the attitude that all nations are downstream from one another.

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Torture and Terrorism
The Legal and Ethical Debates

Tao Browne

Following the events of 9/11 and the rise of terrorism in the 21st century, the use of torture has become an increasingly popular tool in the War on Terror. As the War on Terror has progressed, the critical debate concerning both the legality and ethicality of the use of torture has become a controversial dispute This essay will demonstrate how torture is unable to be legally or ethically justified, except during exceptional scenarios. For the purposes of this paper the essay will focus on the American style of torture in the War on Terror, with the reasoning that the US' stance on torture contributes the greatest to the contemporary debates concerning the legality and ethicality of torture. The War on Terror was launched by the US government following the 9/11 attacks on American soil, this campaign against terrorism was immediately embraced by the international community and thus transformed the American led conflict into an international military campaign. Throughout this paper, the following will be discussed to support the thesis: the definitions of terrorism and torture, the deontological and utilitarian approaches, the legality of torture and finally the case of exceptionalism.

To provide a foundation for this paper it is necessary to define the terms terrorism and torture. Following 1983, the U.S Department of State has used Title 22 of the United States Code to define terrorism as:

> politically motivated violence perpetrated against noncombatant targets by subnational groups or

> clandestine agents, usually intended to influence an
> audience.[269]

This definition of terrorism provides three key criteria which can be used to distinguish terrorism from various forms of non-terrorist violence. To be labelled as an act of terror, an act must be: politically motivated and seeking to influence governmental policy, directed at non-combatants or military members during peacetime, and finally, only a non-state entity is able to execute an act of terror.[270] This definition excludes political violence conducted by nation states from the definition of terrorism, actions such as the peacetime bombing of Pearl Harbour by Japan in 1941 and the 1986 American bombings of Libya are considered acts of war rather than terror.[271] As for the definition of torture, according to article 7(2) (e) of the 1998 Rome Statute of the International Criminal Court torture is defined as:

> the intentional infliction of severe pain or suffering,
> whether physical or mental, upon a person in the custody
> or under the control of the accused; except that torture shall
> not include pain or suffering arising only from, inherent in
> or incidental to lawful sanction.[272]

Following the events of 9/11, the debate over the use torture has re-entered the political realm in many Western countries, particularly the USA, and has resulted in the abuses of human rights.[273]

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[269] Charles Ruby, "The Definition of Terrorism," *Analyses of Social Issues and Public Policy* 2, no. 1 (December 2002): 10.

[270] Charles, "The Definition of Terrorism."

[271] Ibid., 11.

[272] *Rome Statute of the International Criminal Court.* 17 July 1998, 2187 UNTS 38544 (entered into force 1 July 2002), 4.

[273] Torture can be ethically justified in the hypothetical 'ticking time bomb' scenario, which will be addressed in the final section of this paper.

Following the rise of torture in the War on Terror, certain ethical theories have sought to condemn the use of torture as both unjustifiable and immoral. The following section will discuss the approaches of deontology, consequentialism and rule-utilitarianism and their collective denunciation of torture.

Throughout the examination of the approaches of deontology and consequentialism, their shared opposition to the use of torture is visibly obvious. From the deontological perspective, the use of torture cannot be justified in the interrogation of terrorists whatsoever.[274] The very foundation of deontology judges actions based off their linkage to moral norms, rather than the consequences of an action, and therefore prohibits humans from being treated as a means to an end.[275] From this perspective, the infliction of pain or suffering on any individual, regardless of their crime or information they possess, is fundamentally unethical. The ethics of deontology disregards any potential benefits which might arise through the use of torture as entirely irrelevant, claiming that no matter how much information is gained in the process, the act of torture cannot be justified under any circumstance.[276] Intertwining with the ethics of deontology and the arguments against torture, consequentialist ethics criticize the use of torture in the War on Terror due to the existential difficulty in accurately identifying terrorists.[277] Contrasting from the

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[274] Alex Bellamy, "No Pain, No Gain? Torture and Ethics in the War on Terror," *Royal Institute of International Affairs* 82, no. 1 (January 2006): 130.

[275] Vittoria Bufacchi and Jean Maria Arrigo, "Torture, Terrorism and the State: a Refutation of the Ticking-Bomb Argument," *Journal of Applied Philosophy* 23, no. 3 (2006): 357.

[276] Alon Harel and Assaf Sharon, "What is Really Wrong with Torture?" *Journal of International Criminal Justice* 6, no. 2 (May 2008): 245.

[277] Bufacchi, "Torture, Terrorism and the State," 368.

deontological approach, consequentialism holds that the consequences of an action determines whether the act is ethically right or wrong.[278] The consequentialist argument cites numerous cases where Western authorities have imprisoned innocent civilians and subjected them to inhumane treatment, including torture, even after the innocence of their captives has been proven.[279] An intelligence report at Guantanamo Bay in 2002 discovered that 10% of the facility's detainees were wrongly imprisoned and had also been subjected to "enhanced interrogation;" however, rather than developing new programs to solve the problem of erroneous detainment, intelligence leaders increased coercive interrogation strategies and requested the authorization of new "enhanced interrogation" techniques.[280] Furthermore, in 2014, the Senate Select Committee on Intelligence released a report on the Central Intelligence Agency's (CIA) Detention and Interrogation Program which documented the countless mistakes and abuses of the CIA between 2001 and 2009.[281] The Senate Report revealed how in 2006, an internal CIA report stated that 26 out of a total of 119 detainees (22%) were proven innocent after months of torture and imprisonment; furthermore, the CIA Report detailed that in many cases interrogators knew their captives were innocent and yet continued to subject them to inhumane treatment.[282] One of many examples is the case of British citizen Martin Mubanga, who was captured and

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[278] Harel, "What is Really Wrong with Torture?" 244.

[279] Bufacchi, "Torture, Terrorism and the State," 367.

[280] Michael Welch, "Illusions in Truth Seeking: The Perils of Interrogation and Torture in the War on Terror," *Social Justice* 37, no. 2 (2010): 135.

[281] United States of America Senate Select Committee on Intelligence, "Report of the Senate Select Committee on Intelligence Committee Study of the Central Intelligence Agency's Detention and Interrogation Program," Senate Report 113-288 (December 2014): 1.

[282] Ibid., 16.

subjected to "enhanced interrogation" techniques for 33 months at Guantanamo Bay. These interrogation methods included the subjugation to sensory deprivation, forced 'stress positions' and racial and sexual abuse.[283] However, as Mubanga's innocence became clear to the American officials in charge of the interrogation, Mubanga was subjected to even worse treatment due to the false testimony of fellow Guantanamo Bay prisoner David Hicks.[284] This case strengthens the consequentialist argument against torture by displaying that torture does not necessarily produce truthful and reliable statements and, in many cases, can result in further damage to innocent lives. In the majority of cases, confessions made under torture contain dubious levels of truth and merely reflect what the captive believes the interrogator wants to hear.[285] The Senate Report revealed how in the case of Khalid Shaykh Muhammad (KSM), a member of Al-Qaeda, the CIA's use of "enhanced interrogation" failed to produce accurate confessions and ultimately resulted in further confusion.[286] Following his capture, KSM was subjected to 183 cases of waterboarding in the space of a month before finally making a series of confessions to CIA interrogators; however, KSM's confessions were later proven to be false and merely made to satisfy the demands of the CIA.[287] In this case, KSM fabricated information which resulted in the capture and CIA detention of two innocent civilians who were then subjugated to "enhanced interrogation" before later being proven innocent.[288] Through the examination of

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[283] Bellamy, "No Pain, No Gain?" 121.

[284] Bellamy, "No Pain, No Gain?" 121.

[285] Jean Arrigo, "A utilitarian argument against torture interrogation of terrorists," *Science and Engineering Ethics* 10, no. 3 (September 2004): 556.

[286] "Report of the Senate Select Committee," 300.

[287] Ibid., 214.

[288] Ibid.

these examples it is evident that torture does not produce reliable outcomes and thereby cannot be justified from the consequentialist approach. Thus, it is seen from the perspectives of deontology and consequentialism that, in addition to violating an individual's natural rights and treating them as a means to an end, torture does not produce reliable results and therefore cannot be ethically justified.

In addition to the ethical argument against torture provided by the approaches of deontology and consequentialism, the issue also refuted by the rule-utilitarianism approach. Differing from the act-utilitarian approach, which judges actions on the result they produce, rule-utilitarianism judges actions on their conformity to a rule which leads to the greatest good.[289] In the case of torture, the rule-utilitarianism approach argues that torture cannot be justified as it is influenced by self-interest, corrodes liberal democratic systems, and gives rise to the principle of reciprocity.[290] The primary critique towards torture by rule-utilitarianism is that historical evidence demonstrates that torture is frequently used by governments for pernicious reasons, such as to silence government opposition groups.[291] From this stance, the prohibition of torture is essential to the preservation of democracy and liberal governments. Another objection provided by the ethics of rule-utilitarianism concerns the principle of reciprocity, which claims that all of society benefits from the prohibition of torture as it prevents others from potentially torturing us at a certain stage in the future.[292]

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[289] Bellamy, "No Pain, No Gain?" 131.
[290] Ibid.
[291] Herbert Kelman, "The policy context of torture: A social-psychological analysis," *International Review of the Red Cross* 87, no. 857 (March 2005): 129.
[292] Bellamy, "No Pain, No Gain?" 131.

The logic of reciprocity states that if a captured enemy combatant is permitted to be tortured to provide life-saving information, then we must recognize that our own soldiers, if captured, could similarly be tortured to save the lives of our enemies. Thus, if the US continues to torture captured terrorists in their War on Terror, the rule-utilitarian principle of reciprocity denies America from denouncing the torture of captured American soldiers by terrorist groups. In short, the rule-utilitarian argument claims that the use of torture should be prohibited as it undermines the liberal democratic system and can also result in torture of our own people.

In addition to the ethics of deontology, consequentialism and rule utilitarianism, the argument against torture is reinforced through the examination of international law. A series of international treaties were signed following the end of World War II with the intent of abolishing the practice of torture. This section of the paper will focus on the Universal Declaration of Human Rights in 1948, the Third 1949 Geneva Convention Relative to the Treatment of Prisoners of War and it will denounce American attempts to legitimize their use of torture in the War on Terror.

When examining the content within the Universal Declaration of Human Rights (UDHR) and the Third Geneva Convention Relative to the Treatment of Prisoners of War of 1949, the prohibition of torture in international law is explicitly clear. Passed by the United Nations General Assembly in 1948, Article 5 of the Universal Declaration of Human Rights states that, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."[293] Similarly, the Third Geneva

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[293] *Universal Declaration of Human Rights,* 10 December 1948, GA Res 217(iii)A, UN GAOR, 3rd sess., Supp. 48, U.N. Doc A/217/48.

Convention articulates the unconditional rights held by all prisoners of war (POW). Section 1 of Article 3 of the Third Geneva Convention declares that:

> Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely.[294]

Furthermore, Article 3 of the Geneva Convention prohibits the aforementioned persons from being subjected to the following acts:

a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
b) taking of hostages;
c) outrages upon personal dignity, in particular, humiliating and degrading treatment;
d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. [295]

Moreover, Article 17 of the Third Geneva Convention forbids the use of coercion in the conduction of interrogations, stating that:

> no physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever.[296]

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[294] *Geneva Convention relative to the Treatment of Prisoners of War.* 12 August 1949, 75 U.N.T.S. 972 (entered into force 21 October 1950), 91.
[295] Ibid., 92.
[296] Ibid., 98.

Through the examination of content within both the UDHR and the Third Geneva Convention, the illegality of torture is explicitly obvious; however, despite the terms contained within each of these treaties, the USA continues to use torture throughout their War on Terror, claiming that their actions are within the confines of the law. Instead, however, the US argues that their interrogation practices do not constitute torture but are rather "enhanced interrogation techniques" (EITs) and are therefore legally justifiable. The list of EITs, which the US acknowledges to using in their interrogation of suspected terrorists includes the following: cramped confinement, wall standing, stress positions, prolonged sleep deprivation, and water boarding.[297] However, the US' claim concerning the legality of the use of EITs is explicitly denounced by Article 1 of the Convention Against Torture, and Other Cruel, Inhumane or Degrading Treatment Punishment, which states:

> Any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a

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[297] Ruth Blakeley, "Dirty Hands, Clean Conscience? The CIA Inspector General's Investigation of 'Enhanced Interrogation Techniques' in the War on Terror and the Torture Debate," *Journal of Human Rights* 10, no. 4 (2011): 547.

public official or other person acting in an official capacity.[298]

Thus, according to this definition of torture, the US' EITs clearly constitute torture: all of the previously illustrated EITs clearly inflict severe pain and suffering for the purposes of attaining information and therefore are legally denounced by Convention Against Torture.

Despite the established international laws against torture, the USA has continued to practice torture in the interrogation of captured terrorists. To justify their actions, the USA has attempted to manipulate wordings contained within the Third Geneva Convention and thereby legalize the use of torture in the interrogation of terrorists.[299] Although the Third Geneva Convention clearly defines how POWs are to be treated, the Bush administration applied 'enemy combatancy' rather than POW status to detained terrorists and thus revoked substantial restrictions on their treatment.[300] The status of 'enemy combatancy' was created in the 1942 Supreme Court Case, Ex parte Quirin, which ruled that:

> the law of war draws a distinction between the armed forces and the peaceful populations of belligerent nations and also between those who are lawful and unlawful combatants. Lawful combatants are subject to capture and detention as prisoners of war by opposing military forces. Unlawful combatants are likewise subject to capture and

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[298] *The Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment.* 10 December 1984, 1465 UNTS 2481 (entered into force 26 June 1987), 113.

[299] Fritz Allhof, "The War on Terror and the Ethics of Exceptionalism," *Journal of Military Ethics* 8, no. 4 (2009): 266.

[300] Michael Scharf, "The Torture Lawyers," *Duke Journal of Comparative & International Law* 20, no. 3 (Spring 2010): 396.

detention, but in addition they are subject to trial and punishment by military tribunals for acts which render their belligerency unlawful.[301]

This ruling allows the USA to define terrorist detainees as 'unlawful combatants' and thereby hold them indefinitely and without the protections of the Geneva Convention.[302] However, this attempt at undermining the laws within the Third Geneva Convention by denying captured terrorists the status of prisoners of war is refuted by further articles within the Convention.[303] Article 5 of the Convention declares that all persons detained as unlawful combatants are to be treated as 'protected persons' and are under the protections of the Convention until a competent tribunal establishes their status.[304] Furthermore, Article 2 of the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment states:

> No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.[305]

It is evident when drawing from these international laws that the use of torture is prohibited and that the United States' attempts at legitimizing torture via the denial of POW status to captured terrorists is illegal. The decision to legally strip a captured terrorist of their POW status and

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[301] Ex Parte Quirin, 317 U.S. 1 (1942).

[302] Scharf, "The Torture Lawyers," 397.

[303] Knut Dormann, "The legal situation of 'unlawful/unprivileged combatants'," *International Review of the Red Cross* 85, no. 849 (March 2003): 50.

[304] *Geneva Convention relative to the Treatment of Prisoners of War,* 94.

[305] *The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, 2.

define them as an unlawful combatant can only be made by a competent tribunal, thus refuting the legality of the US's independent decision to define all captured terrorists as unlawful combatants. Furthermore, in cases where a competent tribunal terms a captured terrorist as an 'unlawful combatant', the Convention against Torture or Other Cruel, Inhuman or Degrading Treatment or Punishment protect the prisoner from being subjugated to torture. Thus, through the examination of international treaties it is apparent that the use of torture is unable to be legally justified.

> Although this essay has explicitly detailed that the use of torture cannot be ethically or legally justified, in certain exceptional cases torture can be conducted with disregard to ethical and legal norms. This section of the paper will address the 'ticking time bomb' scenario and the hypothetical justification of torture under extreme circumstances.

The claim that torture is able to be legitimately conducted under extreme circumstances is associated with Jeremy Bentham's hypothetical 'ticking time bomb' scenario.[306] This hypothetical scenario depicts a situation where a person, containing the knowledge of an imminent terrorist attack that will kill thousands of civilians, has been captured by authorities and will only reveal the location of the bomb if he is tortured.[307] In this situation, only a pacifist would refute the use of torture. To justify using torture in this hypothetical scenario, the following four must be met: the interrogators must be certain they have the right person, they must be sure the suspect has the information to avert the disaster, they must be certain that the use of torture will secure the needed information, and

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[306] Rod Morgan, "The utilitarian justification of torture," *Punishment and Society* 2, no. 2 (2000): 187.
[307] Blakeley, "Dirty Hands, Clean Conscience?" 545.

finally the information revealed must be reliable.[308] In these scenarios, interrogators may be forced to disregard legal barriers and torture the suspect due to the brutal urgency of the situation. In circumstances such as these alone, the use of torture can be legitimized; however, it must be noted that there has never been such a case in history and that this is merely a hypothetical theory.[309] While the USA claims to have prevented numerous terrorist attacks by using torture in interrogations, the USA has failed to produce evidence of a single case where the use of torture has prevented an act of terror.[310] Thus, while this 'ticking time bomb' scenario does permit the use of torture in certain exceptional cases, evidence suggests that such a case has not yet occurred and that the USA's practice of torture is therefore unjustifiable.

In conclusion, following the events of 9/11 and the ensuing War on Terror the US has begun to use torture as a tool in the interrogation of captured terrorists. This essay has demonstrated that the use of torture violates both international law and the ethical approaches of deontology, consequentialism and rule-utilitarianism. The examination of ethical theories and international treaties throughout this essay has reinforced the thesis that torture cannot be legally or ethically justified, except in exceptional circumstances such as the 'ticking time bomb' scenario.

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[308] Bellamy, "No Pain, No Gain?" 141.
[309] Blakeley, "Dirty Hands, Clean Conscience?" 556.
[310] Ibid.

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