Rethinking Refugee Mobility: Travel Documents as Pathways to Protection

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Abstract:

Issues of migration and border management are a dominant part of political discourse, particularly in Europe where countries grapple with high-profile drownings in the Mediterranean Sea. These tragedies and subsequent discourse reflect a move towards restricted territorial access, governed by stringent policies and concerns of national security. Migration literature often focuses on the barriers that prevent forced migrants from safely and legally accessing territory, but less often considers the ability of institutions to overcome these barriers. This thesis seeks to understand the conditions that allow institutions to facilitate mobility through the issuance of travel documents. Employing a comparative case study that analyzes the Nansen Passport scheme of the 1920s against the Humanitarian Corridors initiative launched in 2015, this thesis teases out tentative conclusions regarding facilitated refugee mobility. Specifically, while many factors are case-specific, institutions have historically succeeded in facilitating movement for refugees when the beneficiaries are restricted on a country-of-origin basis, when reacting to a proximate threat, and when the program serves a key interest of the benefactor. Furthermore, mobility can be facilitated even in the absence of clear legal frameworks or mandates. Given the dearth of scholarly attention to this issue, and the current prominence of the Humanitarian Corridors initiative in discussions of European policy, this study suggests important implications for future research both on the domestic determinant of facilitated mobility programs as well as the possibility of program replication.

Keywords: refugee mobility, territorial access, Nansen Passport, humanitarian visa; Humanitarian Corridor, Europe

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On an even more personal level, I would like to recognize that this project was motivated not only by an academic interest in migration, but by the countless forced migrants I have had the honor of meeting and learning from. When this project seemed bleak or insurmountable, I looked to their injustices, their struggles, and their unspeakable strength as motivation to continue.

Lastly, I thank every individual who takes the time to read this work--or any work concerning migration--simply because the issues addressed herein will only escalate if ignored; they require astute action and intense investment. It is my sincere hope that this be a start.

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For Nasir, Samim, Fardeen, and Nadeem.

Section I. Introduction

In June 2018, British newspaper *The Guardian* published a listing of 34,361 names. Compiled by a European NGO called United for Intercultural Action, the list identified every known migrant and refugee who died trying to access European territory since 1993.

Downloaded as a pdf, the document spans 56 pages, and details gender, age, region of origin, and cause of death. Edmond Kapraku (man, 30, Albania), killed by boat propeller after falling into the sea. Marun Adeba (boy, 2, Iraq), frozen to death in a refrigerated truck. Marian Shaka (woman, 20, Nigeria) drowned while pregnant in a shipwreck off the coast of Libya. Berrais Fethi (man, 30, Tunisia), found in an advanced state of decomposition near coast of Algeria. The list stretches on.

The Guardian's publication is hardly the first time the media has documented the perils of irregular entry. After the 2013 shipwreck that killed 360 refugees off the Italian island of Lampedusa, international news sources and politicians looked critically at the idea of 'Fortress Europe,'[1] sparking heated debates about European policy and procedures of entry. Media attention intensified after 2015, a year that featured land arrivals surpassing 1 million people and the viral images of toddler Alan Kurdi's drowned body. This coverage propagated crisis narratives and encouraged stringent immigration policies.

In recent years, it has become commonplace, trendy even, to write on refugees. Yet while much has been written about the consequences of restricted mobility (human smuggling, drowning at sea, dangerous routes), little has been written about institutionalized mechanisms of

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[1] A term often used in discussing European immigration law, and borrowed from World War 2 military propaganda.

mobility.[2] Scholars and advocates tend to write of restrictive policies rather than examine interpretations of those policies that might allow for the provision of safe access. In particular, although European law allows states to administer visas on humanitarian grounds to facilitate territorial access, little news coverage or scholarship addresses refugee travel documents as a mechanism of mobility.

European law grants constituent states equal power to provide safe access through travel document issuance, but they fail to issue said documents consistently, or at a coordinated level. At first glance, this seems logical: the sheer scale and volume of displacement, logistical issues, and anti-immigrant sentiment all suggest that states might think twice before facilitating safe access to territory. However, a closer look at European law and historical precedent reveals that throughout history European governments have issued travel documents to refugees, sometimes in coordination with other states. In these cases, states allowed individuals to bypass dangerous migratory routes, providing safety passage either by creating new institutional capacities or operating within existing legal frameworks.

This presents a puzzle: why have European nations facilitated mobility in some circumstances but not others? And why don't systems of coordination exist presently, in the face of mass displacement, record irregular migration to Europe, and staggering numbers of migration-related deaths? The following chapters focus closely on these questions, analyzing mechanisms of mobility through a historical and comparative lens to isolate conditions of success. This thesis conceptualizes conditions of success primarily as those factors that contribute to the issuance of travel documents to refugees, and secondarily as the strategies employed by states to act within

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[2] Defined here as formally accepted schemes endorsed by an authority structure (such as an international organization, group of states, etc.) that that facilitate movement across borders/seas.

legal structures and policy arrangements to facilitate mobility. Sometimes these conditions are transnationally coordinated through harmonization, while other times transnational arrangements give the space and encouragement (but not the mandate) for individual states to exercise discretion. This thesis considers not the outcome or scale of programs and initiatives, but whether or not states/institutions/actors successfully facilitate movement by issuing travel documents.

Rather than focus, as much existing literature does, on the inadequacies and failings of the current system, this study employs positive framings to identify the requisite factors for facilitated mobility. It proceeds in five main parts, beginning with a literature review (Section II) that assesses relevant scholarship, focusing largely on three salient trends: migrant routes to Europe, increased restriction to territory and asylum, and the asymmetric interpretation of legal frameworks. The literature review concludes by isolating gaps in this research, and arguing for new scholarly framings that focus on positive examples of mobility rather than negative ones.

Section III examines the conditions surrounding the first recorded example of state and institutional issuance of travel documents to forced migrants: Nansen Passports and Russian refugees in post-WWI Europe. The objective of this section is to tease out early lessons regarding facilitated mobility, and the conditions that allowed for success within the particular context of 20th century Europe.

Section IV explores the evolution of legal frameworks and institutional discourse regarding migration, paying particular attention to changing definitions of refugee status and protection, the European Schengen agreements, Visa Code regulation, and policy coordination. Having established legal and institutional landscapes--and their complicated relationship to

mobility--this thesis proceeds to Section V, which introduces a contemporary case study investigation: Italy's Humanitarian Corridors, initiated for facilitated mobility in Europe. Upon advancing tentative hypotheses regarding the factors contributing to the success of Humanitarian Corridors, this theory turns to Section VI to assess wider conclusions, limitations, and implications for future research.

This is, admittedly, an unconventional structure. The reader may, for example, express confusion upon finishing one case study only to encounter an entirely new chapter before starting the second. However, the nature of the material mandates such structure. The two case studies focus on a similar phenomenon (coordinated provision of travel documents, therefore allowing comparison), but they nonetheless operate within entirely different contexts and eras. Not only did the international political environment undergo monumental change, but so too did legal frameworks (i.e., the 1951/1967 Convention Relating to the Status of Refugees, the Schengen acquis, etc.) and institutionalization (the United Nations, the emergence of the European Union, etc.). With regard to mobility and rights-based affordances, the Europe of Case Study #1 is simply not the same as the Europe of Case Study #2. The section between each accounts for this evolution, mapping out institutional capacity and the unique context within which legal frameworks relating to mobility operate.

This thesis is unconventional not only in structure but also in approach: rather than center on restricted mobility, it focuses on the less-studied, less-understood exceptions. Safe and facilitated movement can exist for refugees. This thesis seeks to understand how. For scholars of migration and policy-makers alike, this approach holds potential for a highly valuable contribution. Scholars may benefit from this investigation of an understudied phenomenon: mechanisms of

safe migration beyond the ones usually considered, which have operated successfully within different times and contexts, both before and after the creation of relevant international institutions. For policymakers, this research lays out successful examples of initiatives and partnerships forged to facilitate mobility, which may serve as potential models for future programs.

Section II. Literature Review

Migration is hardly a new phenomenon; there have been migrants since man drew lines and called them borders. In recent years, however, increased water-based migration and highly publicized drownings have contributed to an explosion of scholarship in the field, with a particular focus on forced migration and access to European territory. The scholarship almost uniformly addresses the current system's failures and inadequacies, pointing to barriers to mobility and the need for reform. Common framings include political gain outweighing humanitarian need, moral bankruptcy, 'Fortress Europe,' and 'crisis' narratives that suggest obstacles of insurmountable weight. Migration research is pregnant with resignation, brimming with a fascination of failed frameworks.[3]

This thesis takes a different approach, seeking to learn from the examples of coordination that do exist, and consider what different approaches to mobility signify. The issues of forced migration and access to territory are as far-reaching and diverse as the communities they address, but at their core lie similar considerations of movement and transnational alignment. Examining trends within existing literature relevant to these topics provides insight, as well as recommendations for future research.

This literature review focuses on three specific streams of scholarship salient to academic work on migrant mobility: routes of migration, restricted access to asylum, and the asymmetric interpretation of legal frameworks. It concludes with gaps in the scholarship, considered within the context of travel documents and humanitarianism.

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[3] As evidenced by Huysmans (2002), Nagy (2016).

II.I Migrant Routes: Paths to Europe

Relevant literature often addresses pathways of migration, focusing on the migrant journey. Scholars accord that routes are "highly adaptable and fluid," subject to considerations of immigration policy, desired destination, travel documents, safety, and localized violence.[4] Some, like Caitlin Katsiaficas (2016), argue that geopolitical factors in MENA (Middle East and North Africa) affect the usage and policing of various routes. Differentiating between the Central Mediterranean Route, which travels from North Africa to Italy/Malta, and the Eastern Mediterranean Route, which travels through Turkey to Greece or other European states, she suggests that fluctuations in each route's popularity correlate with events of unrest, such as those experienced in MENA over the course of the last decade. "The "Arab Spring has transformed EU's immediate neighbourhood," she writes. "In a short time, the Mediterranean Sea has become the new "Rio Grande.""[5]

Pedro Gois and Giulia Falchi (2017) agree, highlighting that following the Arab Spring, the Central Mediterranean route became the most heavily trafficked pathway to Europe. They further underscore the connection to political instability by asserting that "the flows increased after Muammar Gaddafi regime's decision to force out most of the 40,000 sub-Saharan immigrants living there, who had no choice but to head to Europe via Libya."[6]

Scholars focus not only on geopolitical factors of migrant routes but also on considerations of safety, often addressing the dangers associated with human smugglers. Mollie Gerver (2016)

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[4] Caitlin Katsiaficas, "Asylum Seeker and Migrant Flows in the Mediterranean Adapt Rapidly to Changing Conditions," 2016.

[5] Ibid.

[6] Pedro Gois and Giulia Falchi, "The Third Way. Humanitarian Corridors in Peacetime as a (local) Civil Society Response to a EU's Common Failure" (2017), 63.

calls human smugglers[7] the "the primary agents bringing refugees to safety," but suggests that

they pose uniquely dangerous and tempting challenges to forced migrants.[8] Gois and Falchi

identify this danger by explaining that smugglers often put migrants on "unseaworthy fishing

boats, or even small rubber dinghies, which are much overloaded and thus prone to capsizing."

Philippe Fargues and Anna Di Bartolomeo (2015) call the boats "rusty,"[9] while author and

UNHCR (United Nations High Commissioner for Refugees) Goodwill Ambassador Khaled

Hosseini describes "bodies crammed together, waves towering overhead, night skies so dark you

can't tell where sky ends and sea begins."[10]

Scholarship has focused on the human toll of those conditions, the enormity of it all. In the

first half of 2018, 1,500 migrants died trying to cross the Mediterranean.[11] This came years after

the 2013 Lampedusa tragedy, in which a ship sank near Italy and killed 368 of the 500 people on

board. Shortly after, Italy responded with *Mare Nostrum*, a search operation meant to rescue

drowning migrants, but in 2015, it was discontinued so as not to be seen, in the words of

European Council on Foreign Relations' Mattia Toaldo, as "a large pull factor for migration."[12]

Scholars assert that Lampedusa and others were not isolated incidents, suggesting that migrants

still risk death by drowning because smugglers operate through networks of deception. As

articulated by Tuesday Reitano and Peter Tinti (2015):

> Smugglers universally trade on rumours, fears, inconsistencies and the illusion of trust.
> The more vulnerable the migrant feels, the more likely he is to recruit a smuggler, and the

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[7] Human smuggling is distinct from human trafficking in that is is transportation-based, not coercion-based.

[8] Mollie Gerver, "The EU's Operation Sophia Has Failed to Make Conditions Safer for Refugees." (2016).

[9] Philippe Fargues and Anna Di Bartolomeo, "Drowned Europe," (2015), 5.

[10] Khaled Hosseini, "Desperate Journeys - Refugees and Migrants Arriving in Europe and at Europe's Borders," (2018).

[11] United Nations. "UNHCR Sounds Alarm as Mediterranean Sea Deaths Pass 1,500 Mark."

[12] Mattia Toaldo, "Migrations Through and From Libya: A Mediterranean Challenge" (2015), 5.

higher the price he is likely to agree to pay. Smugglers recruit by emphasising the sense of urgency: 'Go now, or they will build a wall and you won't be able to pass there any more,' they may say, for example, to the potential migrant. They will amplify or misrepresent inconsistencies in EU policies, playing on fears and portraying themselves as saviours – that they are the only hope that a migrant will have to reach his destination safely.[13]

Existing literature therefore highlights vulnerability and exploitation as reasons that migrants traverse dangerous paths to Europe. But why travel illegally at all? The following section explores illegal travel as an imperative, and the need for humanitarian travel documents through an exploration of restricted access to asylum.

II.II Increased Restriction: The Need for Facilitated Movement

A second strand of scholarship focuses largely on the fact that few legal routes to entry exist. Although the UNHCR calls third-country settlement one of its three durable solutions for refugees (along with voluntary repatriation and local integration), and the 1951 Convention Relating to the Status of Refugees enumerates the right to apply for asylum, scholars suggest that neither affordance provides the requisite protection. Susanna Trotta (2017) explains in her analysis of safe European passage that resettlement schemes only benefit "small numbers of refugees," and that they only apply to those whose refugee status has already been "recognised by the national authority or the UNHCR."[14] Global trends support Trotta's assertion: in 2017,

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[13] Tuesday Reitano and Peter Tinti, "Survive and Advance: The Economics of Smuggling Refugees and Migrants into Europe," (2015), 5.

[14] Susanna Trotta, "Safe and Legal Passages to Europe: A Case Study of Faith-Based Humanitarian Corridors to Italy" (2017), 1.

UNHCR recorded 1.19 million submissions for resettlement, but only 65,109 departures, translating roughly to a five percent rate of resettlement.[15]

Legal routes to safe territory are sparse for refugees desiring resettlement and also for asylum seekers.[16] Ulla Iben Jensen (2014) explains that although the Common European Asylum System (CEAS) requires asylum seekers to present themselves on the territory, border, or tranzit zones of Member States, EU law requires visas for citizens of over 100 nations. Jensen asserts that most prospective asylum seekers hail from countries with visa requirements, and that the law therefore creates a "prerequisite for seeking asylum" that encourages illegal entry.[17] The European Union Agency for Fundamental Rights' 2014 report reaches a similar conclusion, stating that "although Article 18 of the Charter guarantees the right to asylum, EU law does not provide for ways to facilitate the arrival of asylum seekers…[who therefore] have to cross the border in an irregular manner."[18]

A substantial body of literature suggests that not only must migrants resort to illegal entry because of inadequate legal protection, but also because states increasingly and intentionally restrict access to asylum. This shift signals a changing paradigm, one that moves away from humanitarian concern and towards what Trotta (2017) describes as "the politics of protection."[19]

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[15] United Nations. "Resettlement Fact Sheet 2017."

[16] Refugees and asylum seekers are both individuals escaping persecution, but asylum seekers appeal for protection when on the territory of the country from which they seek protection, whereas refugees apply from abroad.

[17] Ulla Iben Jensen, "Humanitarian Visas: Option or Obligation," (2014) 3.

[18] European Agency for Fundamental Rights. "Fundamental Rights: Challenges and Achievements in 2014," 35.

[19] Trotta, 4.

In recent years, states have begun prioritizing "sovereign exceptionalism"[20] over the liberal

norms of previously accepted and ratified frameworks.[21] In their 2008 study on asylum practices

in Europe and Australia, Jennifer Hyndman and Alison Mountz advance two theories to explain

this change: the externalization of asylum and the securitization of asylum. Hyndman and

Mountz describe the externalization of asylum as a process through which states work to prevent

migrants from lodging asylum applications on their territory, holding that this simultaneously

"elides and divides foreign migrants and domestic systems of legal protection."[22] Alexander

Betts (2004) writes of a similar dynamic, discussing externalization as policies "aimed at

de-territorializing the provision of protection to refugees in such a way that temporary protection

and the processing of asylum claims take place outside of the given nation-state."[23]

Externalization of asylum works in tandem with securitization, which Hyndman and Mountz

suggest represents a shift from "refugee protection to prioritizing the protection of national

security interests."[24] Other scholars document this same dynamic. Vicki Squire (2009) writes that

state protection for displaced people "has been constructed as a 'problem' or 'threat' that

necessitates intensified controls."[25] Alexander Betts and Jean-François Durieux (2007) echo a

similar sentiment, arguing that tying migration to security concerns "limit[s] the ability of

traditional resettlement countries to resettle groups or even individuals of certain nationalities."[26]

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[20] Conceptualized here as a focus on state interest prioritized over international concerns or frameworks.
[21] Jennifer Hyndman and Alison Mountz, "Another Brick in the Wall? Neo-Refoulement and the Externalization of Asylum by Australia and Europe," (2008), 250.
[22] Ibid, 549.
[23] Alexander Betts, "The International Relations of the "New" Extraterritorial Approaches to Refugee Protection: Explaining the Policy Initiatives of the UK Government and UNHCR," (2004), 59.
[24] Hyndman and Mountz, "Another Brick in the Wall? Neo-Refoulement and the Externalization of Asylum by Australia and Europe," (2008), 253.
[25] Vicki Squire, *The Exclusionary Politics of Asylum*, (2009), 9.
[26] Alexander Betts and Jean-François Durieux, "Convention Plus as a Norm-Setting Exercise," (2007), 527.

In his 2006 work on the UNHCR and its relationship with global politics, Gil Loescher refers to states politicizing their commitments international frameworks as "the crisis of refugee protection"[27] But how does this happen? Academics like Oxford's Monish Bhatia suggest that intentional messaging disguises "restrictionist policies and sheer political inaction...overlook[ing] the escalation of border controls and policing measures to keep the 'other' out."[28]

In this way the externalization and securitization of asylum disguise anti-immigrant sentiment in concerns of national security, executed through messaging that paints refugees as dangerous, illegal, or undeserving of protection. One contributing factor is rhetoric that lumps different types of immigrants together. Hyndman and Mountz argue that public conflation of refugees, economic migrants, terrorists, and human smugglers strips individual people of identity and makes them "re-subjectified as groups."[29] This lineation complicates access to protection since different groups are granted different legal affordances. An economic migrant, for example, migrates voluntarily and is therefore not eligible for refugee resettlement or claims of asylum. However, as explained by Stephan Scheel and Vicki Squire in their 2014 study of illegal rhetoric and refugee populations, this very conflation allows for the idea of "the bogus asylum seeker," a conception of forced migrants as voluntary immigrants "imbued with dangerous or excessive agency based on the suspected 'abuse' of the asylum system."[30]

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[27] Gil Loescher, "The UNHCR and World Politics: State Interests vs. Institutional Autonomy" (2006), 352.
[28] Gois and Falchi, 62.
[29] Hyndman and Mountz, 258.
[30] Stephan Scheel and Vicki Squire, ""Forced Migrants as 'Illegal' Migrants" (2014), 194.

What results is a pervasive mindset that many forced migrants are not forced at all, and that, as such, states fall under no obligation to protect them. A "hierarchy of deserving" emerges, allowing governments to turn away those viewed as less worthy of protection, either by suggesting economic drain or danger.[31] Even for migrants with verified and valid claims of persecution, associations to sovereign encroachment and national threat prevail. Scholars suggest that this allows governments to restrict access to protection while avoiding international censure. Bernd Parusel and Jan Schneider tie this dynamic to travel documents in their 2012 study, stating that "visa policy and visa practices serve as control mechanisms when it comes to regulating the entry of foreigners into the national territory. Thus, they are also instruments of security."[32]

In discussing limited access to entry, restricted policies, and dangerous messaging, the existing literature suggests a need for facilitated access to safe territory, perhaps manifest as travel documents. The following section addresses scholarship on legal frameworks through which this facilitation could operate, focusing on ambiguities and subjective interpretation.

II.III Asymmetric Interpretation and Soft Law Frameworks

A third strand of research on migrant mobility focuses on the lack of clarity in legal structures. Although a patchwork arrangement of intra-European regulation governs movement in and out of Europe and therefore the administration of travel documents such as visas, scholars hold that inconsistencies and vague wordings inhibit continent-wide coordination.

In discussing legal ambiguity, the literature largely focuses on the European Visa Code, which outlines procedures for issuing travel documents in EU territory. Scholars draw attention

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[31] Trotta, 10-11.

[32] Bernd Parusel and Jan Schneider, "The Impact of Visa Policy on Migration Control," (2012), 5.

to Articles 19 and 25 of the European Visa Code,[33] which describe the ability of states to issue visas on "humanitarian grounds."[34] Jensen (2014) argues that word choices in the regulation cause confusion, citing the fact that Article 19 holds that states "may" issue humanitarian visas while Article 25 says that states "shall" issue humanitarian visas. "It would indeed be preferable to have the relationship between Article 19 (4) and 25 (1) clarified in the Visa Code," she writes, adding that this slight difference holds heavy implications for "international obligations."[35]

Jensen points also to several ambiguities, such as Article 25's mandate that a state shall issue humanitarian visas when it "considers it necessary" (suggesting, without explanation, some degree of discretion), the fact that the Visa Code never explains how to lodge or process humanitarian visa applications, and the oddity that the phrase "'humanitarian grounds' remains undefined in binding EU legal instruments."[36] Violeta Moreno Lax (2008) writes that "the question of physical access to protection is ambiguously regulated in EU law,"[37] while Betts (2008) argues that states are left to "define their own standards based on their own interpretations of legal norms."[38]

Existing literature suggests that ambiguities impede the "uniform application and interpretation" of regulations governing visa issuance, which, in the words of Claudia Finotelli and Giuseppe Sciortino (2013), allows for "a wide level of discretionary power for European

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[33] This study will address and explain legal frameworks in depth in subsequent sections.
[34] Regulation (EC) No 810/2009.
[35] Jensen, 15.
[36] Ibid, 16, 2, 0.
[37] Violeta Morena Lax, Must EU Borders Have Doors for Refugees? On the Compatibility of Schengen Visas and Carriers Sanctions with EU Member States Obligations to Provide International Protection to Refugees, (2008), 318.
[38] Alexander Betts, "Towards a Soft Law Framework for the Protection of Vulnerable Irregular Migrants," (2010), 11.

member states.[39] Betts (2010) holds that this very discretion means that states "lack sources of normative and operational support in relation to reconciling their own migration concerns with upholding their human rights obligations."[40] In other words, the asymmetric interpretation of legal frameworks hinders coordination and, in some case, can handicap humanitarian efforts.

Some scholars suggest that the international community should address this shortcoming not with an overhaul of the legal system but rather by establishing interpretive norms. Betts (2010) champions the "soft law" approach of creating a framework that ties regulation to universally-agreed upon norms of enforcement. Filling protection gaps, he argues, requires "a) an authoritative consensus on the application of these instruments to the situation of vulnerable migrants and b) a clear division of responsibility between international organisations for the operational implementation of such guidelines."[41] The European Council on Refugees and Exiles also endorses a soft law approach. At a January 2014 conference, it called for "EU guidelines on a common approach" to Visa Code application, suggesting that such a framework would promote "legal and safe access to the EU for protection purposes."[42]

In sum, existing literature points to ambiguities and inconsistencies within European regulation to argue that individual states exercise discretion and unique interpretations when engaging with the same laws. It additionally posits that increased access to protection is not a matter of creating a new system, but of altering understanding and expression of the current one.

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[39] Philip Hanke, Marek Wieruszewski, and Marion Panizzon, ""The 'spirit of the Schengen Rules', the Humanitarian Visa, and Contested Asylum Governance in Europe – The Swiss Case," (2018), 6.; Claudia Finotelli and Giuseppe Sciortino, "Through the Gates of the Fortress: European Visa Policies and the Limits of Immigration Control," (2013), 85.
[40] Betts (2010), 11.
[41] Ibid, 5.
[42] Jensen, 25.

Legal frameworks exist, but they exist ambiguously, and operate within a system increasingly characterized by restriction.

II.IV Research Gaps and Steps Forward

Current scholarship on mobility and forced migration contributes important considerations of migrant routes, the securitization and externalization of asylum, and disparate interpretations of legal frameworks. Taken together, the literature adroitly expresses the need for facilitated mobility. However, it focuses on the failures of migrant mobility rather than the factors that could lead to its success. This presents a glaring gap in the scholarship.

In employing negative frames of analysis, scholars isolate and underscore vital shortcomings of the refugee regime. But when scholarship gives undue attention to stilted mobility, it simultaneously removes active considerations of facilitated mobility, resulting in persistent and inaccurate beliefs that refugees can only access territory through formal resettlement schemes (which only benefit approximately 1% of the globally displaced population), or through illicit means such as smuggling.[43] The subsequent focus either veers from overcoming obstacles to mobility, or seeks to alter the status quo without considering travel documents, a potent, logistically feasible, and historically-proven tool with which to do so. Both results are problematic, and comprise an important shortcoming of the literature.

Having established both salient trends of scholarship and their relevant drawbacks, this thesis now turns to a case study of the first issuance of refugee travel documents, an analysis of mobility and passports in Europe following World War 1.

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[43] Zuzana Cepla, "Fact Sheet: U.S. Refugee Resettlement" (2019).

Section III. Mobility and the Nansen Era (Case Study I)

Interwar Europe provides a logical starting point for discussions of mobility, since that era represents the first example of travel documents issued to refugees at a mass and international level. As argued in this section, European countries worked together to facilitate refugee mobility for three key reasons, all borne of wartime considerations: geopolitical pressures, national interest, and perception of a common enemy.

III.I Russian Refugees and the Passport Question

Prior to the first World War, discussions of migrant mobility revolved largely around statelessness, spurred by an exodus of Russian citizens. The 1917 Bolshevik Revolution, ensuing civil war, and the 1921 famine all created massive political and social unrest in the Russian Soviet Federative Socialist Republic (RSFSR), creating mass westward migration. As explained by migration scholar James C. Hathaway (1984), "some individuals left their homeland in order to avert material devastation and famine; others fled because they held political convictions fundamentally at odds with those of the Bolsheviks."[44]

The exodus of Russians fleeing to Europe resulted in a displacement of 1.5 million individuals, and comprised the first large flow of migrants considered refugees in the twentieth century.[45] Although exiles have existed so long as states have, the Russian situation presented mass displacement at levels not previously seen, complicated by a post-armistice Europe

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[44] James C. Hathaway, "The Evolution Of Refugee Status In International Law: 1920–1950," (2984), 350-351.
[45] Alessandra Roversi, "The Evolution of the Refugee Regime and Institutional Responses: Legacies from the Nansen Period," (2003), 22-23.

"drained by war; stirred by political tensions; and exhausted of capacities to provide adequate relief."[46]

In 1921, the All Russian Central Executive Committee, the ranking legislating body of the RSFSR, revoked the citizenship of all peoples who had lived abroad for more than five years, or who had left Russian territory after November 7, 1917 sans governmental consent. Stripped of valid passports and therefore the ability to move between countries and access employment, hundreds of thousands became stateless and slipped into squalid poverty.[47]

The importance of state-issued travel documents cannot easily be overstated. Documents like passports not only grant governments the ability to regulate transit and labor, but also allow individuals to prove identity and nationality, receive state and diplomatic protection, establish domicile, and enter into contracts for medical, social, and economic assistance. Crucially, travel documents allow the holder to return to the country of issuance. Without these benefits, refugees could barely enter into society, let alone subsist.[48]

At the time of the Russian diaspora, the need for passports was relatively new. Prior to WW1, identity documents were not commonplace, with passports "considered superfluous" and restricted to "diplomats who claimed special treatment."[49] Holocaust historian Michael R. Marrus addressed this dynamic in 1985, noting that with the exception of government officials, ""throughout the nineteenth century [and into the twentieth] there were no serious administrative impediments to the movement of persons between states."[50]

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[46] Ibid, 23.
[47] Isabel Kaprielian-Churchill,"Misfits:" Canada and the Nansen Passport," (1994), 283.
[48] Ibid, 282.
[49] Otto Hieronymi, "The Nansen Passport: A Tool of Freedom of Movement and of Protection," (2003), 43.
[50] Ibid, 44.

In 1914, France, Germany, and Italy made passports mandatory for entry, moving to monitor

their borders in the midst of war. Others followed suit in the name of national security; when the

war ended, the 1919 Treaty of Versailles extended this practice by stating that signatories must

"secure and maintain freedom of communications and of transit."[51] But not everyone was

convinced that the securitization of borders benefitted a healing continent. Italian diplomat

Egidio Reale wrote in 1931 that during the war, passports were widely "condemned as despotic

and as an unnecessary barrier to the freedom of communications," and that many "reasonable

persons" hoped that ending the war meant ending passport usage.[52] On October 21, 1920, the

Advisory and Technical Committee for Communications and Transit's Passport Conference

convened in Paris, and wrote to the League of Nations that it was:

> Convinced that the many difficulties affecting personal relations between the peoples of
> various countries constitute a serious obstacle to the resumption of normal intercourse
> and to the economic recovery of the world; Being of the opinion, further, that the
> legitimate concern of every Government for the safeguarding of its security and rights
> prohibits, for the time being, the total abolition of restrictions and that complete return to
> pre-war conditions which the Conference hopes, nevertheless, to see gradually
> re-established in the near future.[53]

The wartime system of passports remained nonetheless, complicating efforts to assist stateless

people and cementing the need for refugee travel documents.

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[51] The Avalon Project. The Treaty of Versailles. Article 23, Section e.
[52] Egidio Reale, "The Passport Question," (1931), 506.
[53] League of Nations Advisory and Technical Committee for Communications and Transit. "Passport Conference Preparatory Documents" (1925).

III.II The Nansen Passport

Against this backdrop the young League of Nations in 1921, having not even celebrated its two-year birthday, called upon Fridtjof Nansen, a Norwegian scientist, diplomat and polar explorer. Nansen had previously worked with the League of Nations to repatriate Russian prisoners of war and combat famine; the Nobel Committee later recognized these efforts by awarding him the Nobel Peace Prize.[54]

Following Nansen's initial repatriation success and faced again with complicated issues involving Russia and displacement, the League of Nations in 1921 appointed Nansen High Commissioner for Russian Refugees, and presented him with a 3-pronged mandate: to create legal status for refugees and attempt repatriation, to facilitate access to employment in host countries or new ones, and to coordinate existing philanthropic efforts. With these goals in mind, Nansen moved to engineer a travel document for stateless persons, the first ever "legal instrument used for the international protection of refugees.[55]

On July 5, 1922, Nansen convened an intergovernmental conference in Geneva, called the Arrangement with Regard to the Issue of Certificates of Identity to Russian Refugees.[56] The conference created the first legal instrument of "international scope" to provide protection to refugees, a travel document that prevented deportation to the country of origin and allowed movement between states for the primary purpose of finding employment.[57] Initially adopted by 16 signatories (Estonia, Finland, France, Great Britain, Latvia, Bolivia, Roumania, Union of South Africa, Switzerland, Norway, Italy, Bulgaria, Netherlands, Guatemala, Austria, and

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[54] "The Nobel Peace Prize 1922," Nobelprize.org.
[55] United Nations, "Nansen - a Man of Action and Vision."
[56] Roversi, 24.
[57] Hathaway, 351.

Greece) and drafted from proposals written by Nansen himself, the arrangement included guidelines for implementation and a template detailed to include, among other things, date and place of birth, surnames of both parents, occupation, former and present residence, as well as descriptions of hair, eyes, facial structures, and "special peculiarities."[58]

The representatives of the conference together agreed upon nine conditions of implementation, including languages of print (French and the native tongue of the respective country of issuance), a timeline of yearly renewal, processes for transit visas, and the stipulation that certificates be distributed free of charge "except in the event of legal provision to the contrary." In addition, identity documents were not to violate domestic immigration laws of respective states, and they did not afford automatic re-entry to the country of issuance (unlike national passports) "without special authorisation of that state."[59]

More notable than the intricacies of the agreement, for the purposes of this study, are the conditions in which they were struck. Not only did the representatives agree to create a uniform identity document for refugees[60], but they did so unanimously, without a single dissenting vote. Additionally, representatives recommended adoption by the states at the conference, other members of the League of Nations, and even those who were not members. Signatories underscored this push for global alignment and shared responsibility by writing that, "in view of the urgency of the matter," all states were invited to participate, and that they should notify the League of Nations' Secretary-General with details about implementation "as soon as possible."[61]

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[58] United Nations. "Arrangement with Respect to the Issue of Certificates of Identity to Russian Refugees."
[59] Ibid.
[60] At this point in time, the identity papers were meant for Russian refugees only.
[61] United Nations. "Arrangement with Respect to the Issue of Certificates of Identity to Russian Refugees.

Fridtjof Nansen died in 1930, and the League soon after established the Nansen International Office for Refugees, a body that would oversee the protection and documentation of forced migrants.[62] Under Nansen's scheme, approximately 450,000 war-torn people from various states received legal recognition and freedom of mobility, eventually acknowledged and honored by over 50 countries.[63] The Nansen Office administered passports until 1939, when responsibility for identity documents switched to the newly-formed Intergovernmental Committee on Refugees, an organization created to handle post-war migration and refugees fleeing Nazi Germany.[64] What started as an initiative for Russian refugees expanded, evolving in response to global pressures.

The 1922 arrangement makes clear the terms of refugee travel documents, the scope of application, and the depth of support, but it neglects to shed light onto why, for the first time in recorded history, the global community came together to forge monumental and multilateral solidarity with forced migrants. To understand why this movement succeeded where and when it did, it is fruitful to analyze a related instance in which the Nansen initiative failed: Canada.

The Canadian case seems initially anomalous to this discussion, given that the present analysis has hitherto only discussed European states.[65] However, Canada's history is worth exploring given its immense and sustained resistance to refugee travel documents at the time. To discussions of conditions allowing for success, as well as alignment, Canada's extreme non-compliance proves illuminating.

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[62] UNHCR, Convention and Protocol Relating to the Status of Refugees.
[63] Jussi M. Hanhimäki, *The United Nations, A Very Short Introduction*, (2008), 127; Kaprielian-Churchill, 285.
[64] Hieronymi, 40.
[65] South Africa and Guatemala are exceptions; it is not immediately apparent why they were signatories, and future research should explore their seats at the table.

III.III Nansen and Canadian Dissent

Today, the country of Canada is widely considered a model for refugee assistance and resettlement, and was awarded in 1986 the UNHCR Nansen Medal for outstanding service to refugees. High Commissioner Jean-Pierre Hocke called the honor "proof that Canadians recognize that only through a more equitable distribution of the world's wealth and resources can peace and prosperity be achieved for all humanity."[66]

Isabel Kaprielian-Churchill (1994) notes that Canada was not always a haven for refugees, as it "steadfastly refused to recognize the Nansen Passport."[67] Canada's history of exclusion began long before its rejection of refugee identity documents. From the 1885 Chinese Immigration Act, which imposed a $50 charge on Chinese immigrants entering the country, to the 1908 Continuous Journey Regulation, which mandated that immigrants travel to Canada on a single through ticket (excluding people from countries to which no direct steamship service existed, i.e., India, Japan), legislation systematically restricted access to Canadian soil.[68] Often these tactics involved identity documents: "[W]ell before World War I, Canada recognized the growing importance of the passport and passed legislation requiring immigrants, especially those classified as "undesirables," like Asians, to show bona fide passports."[69]

This history was not entirely forgotten when the issue of Nansen passports arose. In 1924 Nansen protection was extended to Armenians and soon recognized by 38 countries (with 54 recognizing protection for Russian refugees).[70] In the face of this seemingly global consensus,

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[66] Isabel Kaprielian-Churchill, 281
[67] Ibid.
[68] Lindsay Van Dyk, "Canadian Museum of Immigration at Pier 21."
[69] Isabel Kaprielian-Churchill, 283.
[70] Ibid, 284-285.

Canada dissented and refused to align. Government documents and archived letters sent between

Nansen, members of the League of Nations, and Canadian officials provide insight into exactly

why Canada proved unwilling to accept its share of responsibility.

A 1924 letter from the Canadian External Affairs office to League of Nations Secretary

General Sir Eric Drummond articulated Canada's position clearly:

> It is the opinion of the Canadian authorities that while the issuing State might be quite
> willing to receive back an Armenian who is physically and mentally fit and had not a
> serious criminal record, that no State would be prepared to take the insane and physically
> defective, whether suffering from a contagious disease or otherwise, whose return would
> involve questions of public maintenance during the remainder of a lifetime. As the
> majority of persons to be deported from Canada would be of the class referred to, the
> present attitude is considered to be necessary for the protection of the various public
> authorities of the Dominion.[71]

Canada averted loyalty to Nansen protection by focusing on returnability, a principle that

affords governments the right to return 'alien immigrants' (defined as anyone without Canadian

naturalization or domicile) to the country of last residence if that person is deemed, within a five

year period of entry, "undesirable." The idea was that migrants who became public charges could

be deported, and that countries of last residence would agree to and facilitate the process.

To Canada's chagrin, this provision was not possible with early identity documents. To allow

returnability was, rather, "to negate the very spirit and purpose of the Nansen Passport," to build

into mechanisms of entry forced mechanisms of exit.[72] Even so, Canada remained steadfast in its

commitment to the principle, with Assistant Deputy Minister of Immigration F. C. Blair

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[71] Ibid, 286.
[72] Ibid, 289.

expressing by letter that "if states were unwilling to risk the return of a few refugees who might become deportable from Canada, their best course was to keep them all."[73]

Although Canada rejected the Nansen network, the network did not give up on Canada. In 1926, the League of Nations invited J. Bruce Walker, Director of Canadian Immigration, to attend an intergovernmental conference on identity documents. Walker traveled with a directive to not accept Nansen passports as long as they remained "one-way document[s], whether that document is in the hands of people we want or people we don't want." This sentiment was reiterated in a cable message sent to Walker from Canadian officials: "Make clear at Intergovernmental Conference our readiness accept [sic] such refugees as we can absorb but only on condition that country sending them agrees return misfits. Stop. Deported six Russians last fiscal year."[74]

At the 1926 intergovernmental conference, signatories as diverse as Luxembourg, Cuba, Estonia, Sweden, India, Bulgaria, Finland, and the Kingdom of the Serbs, Croats, and Slovenes conceded to accept the principle of returnability by endorsing a return period of one year.[75] Walker signed the arrangement, but unlike most other signatories, he returned to a state that refused to ratify it. Historians suggests that his signature greatly confused the international community and Canadian international relations, largely because, as articulated by a memo to External Affairs Undersecretary of State Dr. O.D.Skelton, Canada had not ""the slightest

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[73] Ibid, 289.
[74] Ibid, 285-286.
[75] Cuba and India seemingly stand out as as anomalies; unlike the other listed states, both hold geographically distance from refugee flows (though some fled Russia and sought asylum in Asia), and India was still a colony at the time. As such, it is not immediately clear why these states participated in the negotiations. Unfortunately, unlike with Canada, the literature does not include a rich history of these countries and their participation. Both states would present fascinating case studies to pursue, given sufficient data.

intention of either issuing or accepting such a certificate, it is hard to understand why the 1926 Arrangement was signed."[76]

Rejecting the agreed upon time period, Canada demanded that the return period be extended to five years. The International Labor Organization (ILO) worked in collaboration with the League of Nations to comply, and, in a last-ditch effort, began issuing Nansen passports to Armenian refugees of exceptional health and employability residing in Greece, with five-year return visas from the Greek government. Even with these generous allowances, "Canadian officials continued to refuse these applicants; they found other grounds for rejection."[77]

Canada failed to attend the 1928 or 1933 intergovernmental conferences on the international status of refugees, signaling distance from the cause and from Walker's signature. The rejection of Nansen passports is obvious, but the rationale behind it is less clear, making it necessary to infer the reasons that drove resistance. Historical context suggests that Canada's resistance to compliance with international alignment likely stemmed from two interrelated factors: geography and domestic focus.

European countries worked together to process and address the refugee situation partially because they had to; at the time, Canadian Deputy Minister of Immigration WJ. Egan even acknowledged the importance[78] of "reliev[ing] European states" of the pressing burden.[79] Geographically proximate to zones of conflict, Europe had little choice but to create mechanisms of support for the refugees showing up at their borders. The same cannot be said for Canada, which quickly adopted an isolationist model of foreign affairs. From strictly pragmatic and

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[76] Isabel Kaprielian-Churchill, 287.
[77] Ibid, 290.
[78] Though he acknowledged the importance of lessening the burden, he did not act to do so.
[79] Isabel Kaprielian-Churchill, 288.

political angles, isolation made sense: with distance and oceans between its domestic territory and distant areas of conflict, Canada could remove itself from global responsibility in a way that European countries could not.

Physical distance from the problem allowed Canadian officials to suggest that its international obligation to the League of Nations did not encompass resettling refugees driven from conflicts it did nothing to create. In essence, Canada framed European problems as, well, European, and therefore not Canada's burden. As Europe juggled the specter of communism and threats to global stability (as will be discussed soon), Canada exercised extreme caution "about being drawn into spheres of international responsibility which might embroil the country in collective military action or entail financial cost."[80] It was easier to leave Europe to its own problems.

Underlying this rationale is a tension between global humanitarian obligation and national interest. In Canada, many found the idea of honoring international commitments and growing local economies incompatible. Thomas Moore, the ILO's Canadian ambassador, fed this narrative by voicing concern that "waves" of refugees would lower the national standard of living by injecting the workforce with employees willing to work in menial jobs with poor wages.[81] As a result, labor unions felt threatened by immigrants and advocated against their acceptance. "Scorned as international beggars, refugees were thus denounced as probable drains on the country's economic resources."[82]

In an April 1921 House of Commons debate, Minister of Immigration and Colonization James Alexander Calder bluntly expressed his government's approach: ""We are not in such

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[80] Ibid, 293.
[81] Ibid, 296.
[82] Ibid, 295.

need of immigrants from central Europe."[83] This firm statement implies that the Canadian

approach was to prioritize national interest over global interest, viewing migrants through

cost-benefit analyses that ignored humanitarian emergencies to focus on domestic economies.

This approach differs from that of Europe, where refugees posed both domestic and international

problems; it was impossible to differentiate between the two.

When assessing the positive conditions allowing for successful refugee mobility,

considering a negative case proves fruitful. Canadian dissent illustrates the importance of

geography, as well as the role of domestic agendas. With European states, national interest

aligned closely with international obligation, making action both desirable and necessary. In the

Canadian case, the refugee issue was not in national interest, nor did it align with international

obligation, largely because geography and physical distance weakened the sense of

responsibility. In returning to European analysis, the lessons of Canada remain relevant, and

suggest that all calculus of necessary and sufficient conditions for mobile success must include

acknowledgement of geography and national interest.

In sum, the Nansen passports of the early twentieth century exist as the first mass example of

travel documents deployed on a humanitarian basis for refugees. Spearheaded by Nansen and the

League of Nations, this initiative displayed the international community's ability to share

responsibility and exhibit meaningful solidarity. The over 50 nations that recognized these

documents helped provide protection to an estimated 450,000 people, including Russian artists

Marc Chagall, Igor Stravinsky, Sergey Rachmaninov, and Anna Pavolva.[84] Although a broad

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[83] Ibid, 295.
[84] "The Nobel Peace Prize 1922," Nobelprize.org.

coalition of countries supported the initiative, Canada rejected the system, using the principle of returnability as an "effective smokescreen," to shoulder responsibility.[85]

Though the Nansen system originated nearly a century ago, its lessons hold great relevance today. To modern discussions of refugee mobility, the Nansen legacy provides insight into motivating factors through a rare example of success. The subsequent section assesses the conditions that contributed to the proliferation of Nansen passports.

III.IV Nansen Passports: Conditions for Success

The League of Nations was young when it tasked Nansen with its mandate nearly 100 years ago, and documentation of the exact rationale behind the initiative, international attitudes about the project, and state-specific negotiations are scarce. Most scholarship addressing Nansen passports focuses on the scheme itself rather than the specificities of its conception, so lacking a formal base of data, this analysis grounds itself in critical engagement with existing written histories as well as extrapolation based on evidence from social and political landscapes.

Three distinct factors contributed to the success of Nansen's scheme: geography, national interest, and the perception of a common enemy. The League of Nations did not approach Nansen out of the goodness of its heart, but rather because Russian refugees presented an issue that simply could not be ignored. When the International Red Cross Committee appealed to the League of Nations in 1921 to find a solution to Russian refugees mobility, they asked for action on behalf of "Russian refugees scattered throughout Europe *without legal protection or representation*" [emphasis added]. They did not, to entertain a counterfactual, request protection

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[85] Kaprielian-Churchill, 289.

for "refugees scattered throughout Europe with fear of persecution" or "who are experiencing human rights abuses." Hathaway (1984) writes that the Red Cross' wording implies not a humanitarian duty but "an obligation of international justice."

This duty was time bound and specific, growing from Europe's post-war position.[86] As articulated by journalist Karl E. Meyer (2009):

> A stricken Europe could neither cope with, nor comprehend, the forces by the 1917 Bolshevik seizure of power in St. Petersburg. Seemingly overnight, an ancient empire collapsed, its reins grabbed by a factitious cabal of intellectuals persuaded that their very success confirmed the perfection of an absolutist ideology.[87]

Meyer's words suggest an urgency tied to Europe's wartime position, as well as a concern of magnitude. The sheer volume of the crisis demanded action. Reale attributes the eventual success of Nansen to these "special conditions of the problem," mainly that "the Bolshevik Revolution had put two million Russians outside the law and deprived them of all civic rights."[88] Nearing the end of a devastating war, hurriedly moving towards peace and global reconstruction, European states thirsted for a stable global order, which the exodus of millions severely threatened. As Hathaway (1984) writes, the "withdrawal *de jure* by a State, whether via denaturalisation or the withholding of diplomatic facilities such as travel documents...results in a malfunction of the international system." The Nansen passports were designed, in Hathaway's parlance, to "correct this breakdown in the international order."[89]

As such, the impetus behind refugee travel documents was structurally legal rather than moral or humanitarian. This stemmed largely from the definition of refugee, which at the time

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[86] Canada's dissent proves insightful once more: geographic isolation from the Russian revolution, the subsequent exodus, and related political destabilization meant that Canada was not forced to feel the pressures that gripped Europe.

[87] Karl E. Meyer, The Curious Life of the Lowly Passport, (2009), 74.

[88] Reale, 507.

[89] Hathaway, 358.

conceptualized refugees as anyone physically outside their home nation and dispossessed of the

protection of their government. "The purpose of refugee status conceived in juridical terms is to

facilitate the international movement of persons who find themselves abroad and unable to

migrate because no nation is prepared to assume responsibility for them" writes Hathaway.[90]

   As the world had not previously experienced mass migration at a volume comparable with the

outflux of Russian émigrés, there lacked widely-accepted, institutional definitions to the term

refugee. As High Commissioner, Nansen established the following juridical definitions:

> Russian refugee: Any person of Russian origin who does not enjoy the protection of the
> Government of the Union of Soviet Socialist Republics and who has not acquired any
> other nation.

> Armenian refugee: Any person of Armenian origin, formerly a subject of the Ottoman
> Empire, who does not enjoy the protection of the Government of the Turkish Republic
> and who has not acquired any other nationality.[91]

   The specificity of this case cannot be ignored, and suggests that the non-humanitarian focus

of this protection grew at least partially from an us vs. them dynamic. Travel documents were

first made for Russian refugees, and then extended to Armenians. As such, the passports were

"category-oriented," ironically tied to definitive[92] and ill-flexible borders.[93] Before his death,

Nansen suggested expanding protection to various groups of Assyrians, Assyro- Chaldaeans,

Ruthenians (who had previously lived in Eastern Europe's Galicia, now located in Ukraine),

Montenegrins, Turks, Hungarians, and Jews. The League of Nations met Nansen's proposal with

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[90] Ibid, 349.
[91] Ibid, 353.
[92] In the first years of operation, beneficiaries were required to prove that they were in fact of Russian origin residing beyond the boundaries of the USSR, or were otherwise deemed ineligible.
[93] Laura Barnett, "Global Governance and the Evolution of the International Refugee Regime," (2002). 242.

skepticism, and the belief that Nanasen had painted with too broad a brush. League of Nations

rapporteur Nicolae Petresco-Comnène commented that:

> the mere fact that certain classes of persons are without the protection of any national Government is not sufficient to make them refugees; for on that theory all classes of persons without nationality would have to be included.[94]

Shortly thereafter, Nansen revoked his support for classifying Montenegrins as refugees,

arguing that they were able to obtain passports in the Kingdom of the Serbs, Croats and

Slovenes, and were therefore not "under analogous conditions to those of the Armenian and

Russian refugees."[95]

The selection of countries[96] whose nationals (or ex-nationals, given displacement) received

travel documents was hardly random. Note the stringent focus on Soviet spheres (the Soviet

Union and the Armenian Soviet Socialist Republic), and the fact that Nansen's very system grew

from their presence. The East and the West share a long history of mutual threat, both militarily

and culturally. So when the USSR transformed into an increasingly aggressive communist

system, Europe took notice. "In much of the capitalist West," writes Meyer (2009), Russian

revolution and extension was entirely "troublesome."[97]

In the face of such a starting specter, institutionalizing mobility for Russian refugees

represented not only an act of humanity, but an act of defiance against communism. Under

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[94] Hathaway, 355.

[95] Ibid, 356.

[96] According to Hathaway (1984), the League of Nations extended its definitions at the 1928 Intergovernmental Conference to include people who were Turkish, Assyrian, Assyro-Chaldean, or "any other person of Syrian or Kurdish origin" lacking protection or new nationality. In subsequent years, these definitions faced challenges from the international community. At a 1933 Intergovernmental Conference, for example, Czech and Polish delegates expressed discontent with the definitions, characterizing them as imprecise. The Chairman of the conference agreed that the definitions were "*imparfaites*," but argued it was simpler to keep them given that governments had already incorporated them.

[97] Meyer, 75.

Bolshevik repression, citizens were not afforded the right to passports or travel, and as such, the administration of such a document in Europe, particularly to people of Russian descent, was a display of "visible demonstration" against the communist system.[98]

This introduces another lesson of Nansen, tied but not twin with its specificity: common threat. United not always in policy but at least in democracy, Europe acknowledged the Russian threat and acted accordingly. Understanding that non-democratic regimes often deny citizens mobility, and wanting to distance itself from both wartime legacies and the communist East, Europe moved to remedy the dilemma of Russian refugees in a clear way: with unity, and against an ideological enemy. As explained by Hathaway (1984), "The reign of liberalism with its individualistic orientation and respect for self-determination led most European powers to permit essentially uncontrolled and unrestricted immigration"[99]

The previously discussed example of Canadian dissent bolsters this argument. Thousands of miles and time zones away, the 'threat' of communism resonated differently in Canada, watered down by the ocean between. Isolated from the conflict, Russian refugees were faceless, the rise of communism far from sight. This point bears great importance given that presumably, the same factors that allowed for success in Europe should be missing in Canada. Geography, national interest, and common enemy motivated European actions, but in Canada, refugees were not by default a domestic issue, nor was there as strong a perception of common enemy.

In sum, Nansen's facilitated mobility resulted largely from geographic and geopolitical considerations (national interest and common enemy). Concerns regarding world order and communism played significant roles; one cannot ignore the fact that the Russian fallout was felt

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[98] Hieronymi, 39.
[99] Hathaway, 348.

in Europe and that the threat was existential *to Europe*. Not assisting refugees would likely have escalated the threat, jeopardizing world order and further preventing European stability, extending wartime woes. In this way, the impetus was structural and self-serving, rather than moral or humanitarian.

Having assessed the Nansen scheme, this thesis now turns to a discussion of legal regulations and institutional bodies. When the Red Cross Committee and the League of Nations approached Nansen in an attempt to remedy the refugee issue, there existed no institutionalized mechanisms of mobility. Specific temporal context and the perception of threat allowed for Europe to create its own instruments, resulting in formative change not only with regard to the protection of refugees but also to their legal definitions. The subsequent decades exhibited marked change, rendering the modern landscape of international protection almost unrecognizable. The following section addresses the evolution of relevant legal frameworks and institutions, with a focus on mobility and territorial access.

Section IV. Evolution of Legal Frameworks and Institutional Landscapes

In the years following Nansen's revolutionary scheme, refugee definitions and affordances continued to evolve. This section traces these evolutions by proceeding in four key parts. It begins with a discussion of the 1951 Convention Relating to the Status of Refugees before pivoting to the emergence of EU law and visa policy as it relates to refugees and mobility. It then considers the legal basis for refugee travel documents, before assessing ambiguity within legal frameworks, entertaining an illustrative case that displays the impact of vague language and state-specific interpretation.

IV.I 1951 Convention Relating to the Status of Refugees

Heightened visibility and awareness of displacement in the wake of WW2 set the groundwork for a definitive, institutionalized framework regarding refugees. The framework materialized in 1951, at the Convention Relating to the Status of Refugees. Known also as the 1951 Refugee Convention (henceforth the Convention), the treaty exists as the cornerstone of international protection, a blueprint that defines the term refugee and outlines both the responsibilities of member states and the rights of displaced people. Stemming from Article 14 of the 1948 Universal Declaration of Human Rights, which states that "everyone has the right to seek and to enjoy in other countries asylum from persecution," the Convention centralized all previous instruments and regulation to provide a definitive codification of refugee rights and responsibilities.[100]

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[100] Universal Declaration of Human Rights, Art. 14.

As previously explained, prior to the Convention different agreements, conferences, and legal structures employed disparate definitions of refugees, often related to certain ethnic groups (i.e., Russian refugees, Armenian refugees). The Convention for the first time adopted a single and universal definition: A refugee is someone who, "owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country."[101] At the time of this writing, this classification remains the dominant definition in legal, governmental, and humanitarian spheres.

The Convention not only defines who qualifies as a refugee, but also the affordances to which refugees are entitled. As such, "[t]he Convention is both a status and rights-based instrument and is underpinned by a number of fundamental principles, most notably non-discrimination, non-penalization and non-refoulement."[102] For the purposes of this study, the last principle is most pertinent, as it relates to movement and safety. Non-refoulement flows from Article 33, which holds that "[n]o Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."[103] In other words, host countries may not return those seeking protection to states in which their lives may be in danger.

The definition of a refugee and the principle of non-refoulement provide clear bases for refugee status and protection, but they do not provide mechanisms of mobility. Article 28

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[101] Convention Relating to the Status of Refugees, Article 1.2.
[102] Convention and Protocol Relating to the Status of Refugees, 3.
[103] Convention Relating to the Status of Refugees, Art. 33.1

stipulates that contracting states shall "issue to refugees lawfully staying in their territory travel documents for the purpose of travel outside their territory, unless compelling reasons of national security or public order otherwise require." Of note to the discussion of humanitarian travel documents, the Convention adds that states must give particularly "sympathetic consideration" to those who cannot obtain travel documents from their country of lawful residence.[104]

All voting states present at the Convention unanimously affirmed that both the issuance and recognition of travel documents was "necessary to facilitate the movement of refugees."[105] Otto Hieronymi (2003) suggests that the deep support and detailed stipulations of travel documents at the Convention shows that the framers understood the significance of movement as a basic human right that should be extended to refugees. It is unlikely coincidental that this thinking manifested itself not long after WW2, which served as a reminder that the right to leave and return is often denied by repressive regimes. According to Hieronymi, the post-war environment reminded the world that that "if French, English, or Swiss citizens have the right to travel outside their countries, so should the refugees who have been granted refugee status."[106]

One hundred and forty-five states ratified the Convention, which took effect in 1954 and was amended (for the first and only time) in by the 1967 Protocol, which clarified wording from the 1951 agreement to lessen time-specific and geographic restrictions to protection. For the first time in history, refugees enjoyed a uniform definition and clear covenants, recognized by international and legal bodies.

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[104] Ibid, Art. 28.
[105] Convention and Protocol Relating to the Status of Refugees, 10.
[106] Hieronymi, 39.

The Convention's ratification signified alignment and consensus, leading to the emergence of shared policy. The subsequent years exhibited deepening cooperation in Europe, ranging from the 1957 Treaty of Rome, which created a common market, to the 1993 Treaty on European Union (the Maastricht Treaty), which formally established the EU.[107] This unity eventually extended to visa policy, which operates through regional coordination with regulations that directly affect state capacity to administer travel documents. The subsequent section explores this system in detail.

IV.II The Schengen Acquis and EU Visa Policy

The European Union operates with a common visa policy that controls exit and entry to European territory. This stems from the Schengen acquis, an assortment of laws which govern border control of certain member states. Another institutional innovation, this arrangement arose from the 1985 Schengen Agreement, which created the Schengen area of 26 members states that mutually abolished internal borders to promote free movement. The area accounts for all but eight of the European states, four of which (Cyprus, Croatia, Romania, and Bulgaria) are soon to join. Four non-EU nations (Norway, Liechtenstein, Iceland, Switzerland) round out the list.[108] Signed in a Luxembourg town by the same name, and incorporated into EU framework in 1999, the Schengen acquis controls European entry and exit, and works in association with the EU Common Visa Code, which oversees the issuance of short-term visas in the EU, defined as no more than 90 days of a 180-day period.[109]

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[107] "The History of the European Union." European Union.
[108] "Schengen Area - Visa Information for Schengen Countries." Schengen Visa Information.
[109] Hanke et al, 2, Jensen, 7.

It is important to note that the acquis facilitates internal movement while working simultaneously to control and restrict external access. In other words, the aquis allows some to experience free movement while entirely restraining mobility for others. With the development of Schengen, visas now supplement existing passport requirements to screen potential threats prior to entry. As such, consular offices located in countries of departure provide an additional layer of security that allows free movement within Europe to proceed with national and public confidence. Put simply, visas serve for Schengen as "a border of paper."[110]

The Schengen acquis and subsequent visa policy grew from a desire to secure borders, as states entered negotiations in the 1990s attuned to the disintegration of communist blocs and the imperative of prevention. As Finotelli and Sciortino (2013) write, the coordinated "introduction of a visa requirement was mainly targeted, at the time, at preventing the arrival on EU territory [of asylum seekers]...European governments were mostly interested in actions that could sharply curtail ex-ante the chances for a prospective applicant to enter a country where he or she could file an asylum claim."[111] While much contemporary discussion of the Schengen area focuses on intra-EU dynamics (particularly in the Brexit era), this suggests that the Schengen system and attempts to centralize policy concerned external dynamics as well, given the system's implicit connection to border security and its tie to Hyndman and Mountz's (2008) previously mentioned theories of externalization and securitization.

Such coordination of policy stemmed from the fact that with the exception of states bordering non-European territory or the sea, most member states required inter-territorial cooperation and a

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[110] Simon Rampaer, "How the Framing Strategy of the European Institutions Influenced the Decision Not to Harmonise the Humanitarian Visa Scheme," (2018), 10, 17.
[111] Finotelli and Sciortino, 83.

mutual standardization to realize their domestic and security interests. The case of 1980s

Germany exemplifies this imperative. The first Western European country to introduce visa

requirements as a deterrence to asylum seekers, Germany struggled to gain control over the

system without unity between the German Democratic Republic (East Germany) and the Federal

Republic of Germany (West Germany). After West Germany incorporated visa requirements,

asylum seekers moved their stream to East Germany, managing still to reach West Germany via

Berlin. Only when East German officials agreed to enact similarly restrictive policies in 1986

was the flow "effectively contained."[112]

It's perhaps not surprising, then, that the German delegation played a particularly aggressive

role at the first Schengen Agreement negotiations in 1985, arguing for an annex mandating that

the abolition of internal border controls must come with 'compensatory measures' for internal

security. In other words, the abolishment of internal borders was conditional on increased

European cooperation and the restriction of 'irregular' migration.[113] As such, the very formation

of the current system grew from and not with concerns of forced migration and security.

In practice this translated into the formation of lists designating geographic grounds of

exclusion and acceptance. Building from the visa regulations of the Maastricht Treaty, the EU in

1995 established through the European Council a directory of countries whose citizens would

require visas to enter EU territory, known as a negative list. This regulation (No. 2317/1995)

evolved in 2001 into another regulation (No. 539/2001), expanding to encompass also a positive

list that outlined states whose nationals would not require such documentation. These regulations

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[112] Ibid.
[113] Ibid, 84.

accorded with the Schengen Agreement and, later, the European Visa Code, allowing widespread incorporation into the EU legal system.[114]

Regulation No. 539/2001 states that the delegation of countries to a negative or positive listing is governed by a "case-by-case assessment of a variety of criteria relating *inter alia* to illegal immigration, public policy and security, and to the European Union's external relations with third countries."[115] Various amendments have since showed the importance of migration as a criterion of consideration; Regulation No. 539/2001 was amended in 2003 and 2007 to exclude Ecuador and Bolivia, respectively, from the positive list. According to Finotelli and Sciortino, delegates explained these amendments by pointing to the high levels of migration out of those countries, while a French delegation in 2003 lobbied against lifting airport transit visa requirements for Sri Lankan citizens since Sri Lanka was "the second biggest source of asylum applications from Asia"[116]

The 2001 regulation bears relevance to this study because it dictates barriers to entry while neglecting to lower those barriers for refugees. The regulation addresses "illegal immigration" as a consideration, but does not mention forced migration; since the ability to seek asylum is not illegal but rather a right recognized by the Convention, the hopeful refugee might argue that she or he falls outside the terms and is therefore exempt. However, in 2009 the European Parliament established a Community Code on Visas (also known as the Visa Code) through Regulation No. 810/2009, aimed at "facilitating legitimate travel and tackling illegal immigration through further harmonisation of national legislation and handling practices at local consular missions."[117] This

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[114] Ibid.
[115] Council Regulation (EC) No 539/2001.
[116] Finotelli and Sciortino, 85.
[117] Regulation (EC) No 810/2009.

regulation clearly outlined compliance: in discussing visa eligibility for territorial entrance, the European Commission clarified that "the concept of third-country national...also includes refugees and stateless persons."[118]

The importance of this last point must not be ignored: the system fails to make exceptions for refugees with regard to visa requirements and territorial access. Put simply, the visa structure affords no explicit protection to forced migrants in terms of movement. However, a close look at the Visa Code and Schengen frameworks suggest the possibility of legally administering humanitarian visas.

IV.III The Legal Basis for Refugee Travel Documents

The legal basis for refugee travel documents comes from visa regulations. Two types of visas dictate entry into the EU: Schengen and national. Schengen visas provide for stays of up to three months, granted according to the Schengen acquis. The wider European Union regulates long-term entrance with national visas, which authorize residence for longer than three months and accord to state-specific law.[119] Both types engage with the common European Visa Code, which is significant since its framework allows for the possibility of travel documents on humanitarian grounds.

Most pertinent to this discussion are Articles 19 and 25 of the Visa Code. The former regulates terms of admissibility for Schengen visas, and the latter addresses visas of limited territorial validity (LTV), which are travel documents valid in at least one but not all Schengen states. Article 19 outlines consulate duties, procedures of admission, and application components

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[118] Moreno Lax, 325.
[119] Jensen, 15.

(valid travel document, photograph, fee paid, application signed, biometric data collected, completed on time) prior to addressing derogation in section 4: "By way of derogation, an application that does not meet the requirements set out in paragraph 1 *may be considered admissible on humanitarian grounds* or for reasons of national interest" (emphasis added).[120]

This provision recognizes that the standard components of a visa application are meant for regular migrants, not for forced migrants pushed quickly and perhaps violently from their homes. The system expects applicants to produce valid travel documents, information about their journey and stay, proof of return, and evidence of economic subsistence. Rare is the refugee who can meet these requirements.[121] Article 19 accounts for this unfortunate truth by derogating from admissibility provisions, meaning that it selectively allows the consideration of applications that lack the requisite materials.

Article 25 acts similarly, allowing derogation from Schengen provisions. Article 25 compels member states to issue Schengen LTV visas "exceptionally" when "the Member State *considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations*" to derogate from Schengen Borders Code regulation in which the applicant may not otherwise qualify (emphasis added).[122] In other words, there exist two legal mechanisms of recourse for humanitarian visas, deemed allowable even after failing to meet other standards.

In sum, several legal and transnational frameworks exist to provide for the protection and mobility of refugees and asylum seekers across borders, and allow for the possibility of

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[120] Regulation (EC) No 810/2009.
[121] Moreno Lax, 326.
[122] Regulation (EC) No 562/2006; Regulation (EC) No 810/2009.

facilitated movement. The 1951 Convention enumerated rights and mechanisms of mobility, while the Schengen acquis and Common Visa Code securitized European borders, to the detriment of refugees. However, provisions exist within legal structures that open the possibility of humanitarian visa issuance, ambiguities and inconsistencies allowing for state-specific interpretation. Taken together, these institutions support the legal issuance of visas on a humanitarian basis.

Ambiguity in the Visa Code complicates this support. While articles 19 and 25 allow for the possibility of such humanitarian visas, they do so in clouded and sometimes contradictory language. Article 19, for example, outlines eligibility and admissibility for Schengen visas yet fails to cite international obligation as a means of derogation, making the provision seemingly incompatible with Article 25, which states that humanitarian visas shall be administered "on humanitarian grounds, for reasons of national interest *or because of international obligations* [emphasis added]."[123] The Code further exacerbates tension between these provisions by using differing directives in each ("shall" in Article 25, and "may" in Article 19), and never outlining the procedure for lodging LTV visa applications on humanitarian grounds. Of concern to the universal principle of non-refoulement, the Code leaves unclear whether or not a failed applicant may appeal their case, inviting uncomfortable questions about decision-making and due process. And perhaps most perplexingly, EU law at no point provides a definition of "humanitarian grounds," meaning that the entire framework upon which this rests is discretionary, speculative even.[124]

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[123] Regulation (EC) No 810/2009.
[124] Rampaer, 34.

The lack of an institutionalized framework clear in phrasing and intent presents a plethora of problems, making subjective what is meant to be objective: the law. As expressed by Alexander Betts (2010), these tensions and ambiguities mean that "countries of destination and transit currently lack guidance in how to interpret and fulfil their human rights obligations towards vulnerable migrants."[125] To illustrate this lack of guidance, and the heavy hand of interpretation, this thesis turns to the case of a Syrian family hoping to escape to Belgium.[126]

IV.IV Ambiguity and Interpretation: *X and X v État belge*

On October 12, 2016, a family of five (two adults and three children) applied for a 90-day LTV visa through the Belgian embassy in Lebanon, lodged on humanitarian grounds with the intention of later applying for asylum. From Aleppo, Syria, the applicants claimed that the political and wartime situation made their family targets of attack, given their Orthodox Christian religion. To substantiate their claims, one applicant detailed the family's experience of being abducted by "an armed group" and tortured, only released upon payment of ransom. The applicants noted that because of the war, the border between Lebanon and Syria was closed, and that as a result they could not escape to neighboring countries to register as refugees.[127]

On October 18, the Office des étrangers (Belgian Aliens' Office') refused the Syrian family's visa applications, arguing that since they intended to subsequently apply for asylum, their intent was not actually to stay in Belgium for a 90-day period. The Office added that "Member States

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[125] Betts (2010), 11.

[126] While not a formal case study of the thesis, this example is worth laying out in detail because of its recent occurrence, prominence in the literature and news, and the clarity with which it displays the impact of ambiguity.

[127] Court of Justice of the European Union. "Advocate General's Opinion in Case C-638/16 PPU X and X v État Belge.

are not obliged to admit into their territory all persons finding themselves in a catastrophic situation."[128] In desperation, the family approached the Conseil du contentieux des étrangers (Belgian Asylum and Immigration Board) with the hope of recourse, asking for a suspension of the application decision. Given the urgency of the deteriorating situation in Syria, the Board recommended the case, called *X and X v État belge,* to Court of Justice of the European Union (CJEU), the high judicial body tasked with "ensuring EU law is interpreted and applied the same in every EU country; ensuring countries and EU institutions abide by EU law."[129] Prior to judging the case, the Court requested a preliminary ruling (which, in the CJEU, serves as a non-binding recommendation) from its Advocate General and senior legal advisor, Paolo Mengozzi.

Advocate General Mengozzi delivered his ruling on February 7, 2017. The 31-page opinion began by recognizing the discretionary nature of the case, writing in the very first line that the request for a preliminary ruling "concerns *the interpretation of* Article 25(1)(a) of Regulation (EC) No 810/2009 of the Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas ('the Visa Code')" (emphasis added).[130] The Advocate General additionally noted that other EU regulations, mainly Articles 4 and 18 of the Charter of Fundamental Rights of the European Union (which prohibit torture and enumerate the right to asylum, respectively) also merited interpretive consideration.[131]

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[128] Ibid.
[129] "Court of Justice of the European Union (CJEU) - European Union - European Commission." European Union.
[130] Court of Justice of the European Union. "Advocate General's Opinion in Case C-638/16 PPU X and X v État Belge.
[131] EU Charter of Fundamental Rights, Articles 4 and 18.

By beginning his opinion with an immediate recognition of the Visa Code's ambiguity, the leading advisor to one of Europe's highest courts framed his legal analysis in discretionary terms, ultimately grounding his ruling on the basis of interpretation. Ruling in the Syrian family's favor, Mengozzi wrote that there is no need to find a legal route to Europe since:

> That legal route already exists, namely that of Article 25(1)(a) of the Visa Code, as the rapporteur of the committee on civil liberties, justice and home affairs of the Parliament has indeed acknowledged. For the reasons which will be set out in my analysis below, I invite the Court to find the existence of such a legal route which entails the obligation to issue humanitarian visas, under Article 25(1)(a) of the Visa Code, under certain conditions.[132]

In reaching this conclusion, the Advocate General considered a patchwork of European legislation to conclude that the Visa Code "as a minimum, [requires] a Member State to examine the humanitarian grounds" of LTV visa applications, and that if claims are well-founded, "the Visa Code requires that it issue that national a visa with limited territorial validity."[133] Recognizing again the Code's ambiguity, Mengozzi noted that while the wording implies state-specific discretion, EU law that failed to recognize religious persecution as legitimate would render the term 'humanitarian grounds' meaningless. After adding considerations of the Charter of Fundamental Rights and its protection from torture, he thus concluded that discretion in the Code "is necessarily circumscribed by EU law."[134]

In writing this opinion, the Advocate General assessed the interplay of various regulations to consider legal ambiguity, drawing not only from the Visa Code but also the Charter of Fundamental Rights. In doing so, he interpreted EU law as having connections and ties, and as a

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[132] Court of Justice of the European Union. "Advocate General's Opinion in Case C-638/16 PPU X and X v État Belge," 2.
[133] Ibid, 20.
[134] Ibid.

result, found a "positive obligation on the part of the Member States" to issue travel documents when the refusal to do so would result in subjugation to torture or inhumane treatment. As such, the ruling, mostly legal in nature, did not lack moral appeal.[135] The Advocate General opined: "It is, in my view, crucial that, at a time when borders are closing and walls are being built, the Member States do not escape their responsibilities, as they follow from EU law or, if you will allow me the expression, their EU law and our EU law."[136]

By invoking the question of hard borders, walls, and and shared responsibility ("our EU law"), the Advocate General expressed ethical concerns, appealing to liberal European values as well as the law. This seemingly peripheral detail bears note; a high advisor to the European Court recognized in writing not only the legal right of refugees to access territory, but also the humanitarian and moral imperative for the Union to respect that right. The following excerpt displays Mengozzi's framing of the issue as both a legal and an ethical crisis:

> Frankly, what alternatives did the applicants in the main proceedings have? Stay in Syria? Out of the question. Put themselves at the mercy of unscrupulous smugglers, risking their lives in doing so, in order to attempt to reach Italy or Greece? Intolerable. Resign themselves to becoming illegal refugees in Lebanon, with no prospect of international protection, even running the risk of being returned to Syria? Unacceptable.[137]

The explanation of this specific case and the Advocate General's opinion benefits the present study by showing not only the process of interpretation but also the discordant results. Exactly one month after Mengozzi delivered his ruling, the Court released its official judgement, directly dissenting from the findings of its top advisor. The Court assessed that short-term visas filed with

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[135] Differing from the 'juridical' ethos exhibited during the Nansen era.
[136] Court of Justice of the European Union. "Advocate General's Opinion in Case C-638/16 PPU X and X v État Belge, 2.
[137] Ibid, 27.

intent of extension do not actually qualify as short-term, and therefore fall outside the framework

analyzed by Mengozzi. Hinging the entire opinion on this belief, the Court swiftly concluded that

an application made "on the basis of Article 25" with the intent of staying longer than 90-days

"does not fall within the scope of that [the Visa] code but, as European Union law currently

stands, solely within that of national law."[138]

The opposing rulings show different approaches utilized within the same legal apparatus. The

Advocate General looked at the relationship between existing regulation to override ambiguity

with a methodological, legal, and at times, moral approach. The Court of Justice, in contrast,

focused on a technicality, allowing intent to sideline any other discussion of legality. By doing

so, the Court essentially delivered an institutional blessing of discrepancy, not eliminating

humanitarian visa issuance but leaving it to the politics of individual states.

X and X v État belge provides a compelling and complicated scenario of mobility, and the

possibility of mitigated success in the face of failure. With regard to the present study, this case

displays the practical constraints of existing regulation while also suggesting that even with

ambiguities inherent in the law, there still can exist successful mobility. Crucially, the

Syrian-Belgian case suggests that when it comes to refugee mobility, one condition for success is

the positive interpretation of existing frameworks, as applied by the Advocate General. Other

potential conditions seem to be the interplay and joint-consideration of various EU-wide

regulations, as well as a consideration of moral duty and ethics.

Taken together, the previous sections illustrate not only that protection frameworks have

evolved since the Nansen era, but also that legal and institutional mechanisms of mobility do

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[138] X and X v. État belge, C‑638/16 PPU, European Union: Court of Justice of the European Union.

exist, even if shrouded in ambiguity. The existing framework for humanitarian visa issuance is fragmentary, incomplete in its conception and execution. It is also incomplete in its harmonization, and in the final portion of this chapter on legal and institutional growth, this thesis considers disputes of coordination as they relate to travel document issuance.

IV.V Challenges to Harmonization: A Supranational Dispute

As legal and institutional frameworks have evolved, so too has the discourse around them. This section traces European disputes about whether or not to coordinate mechanisms of facilitated entry for refugees, finding pockets of support overwhelmed by a desire for state discretion.

Since the creation of Schengen, governing bodies have met frequently to assess the desirability and feasibility of harmonized entry procedures with regard to humanitarian territorial access. In 2001 the European Commission administered a study on Protected Entry Procedures (PEPs), legal channels of migration that extend the asylum process to foreign land, often by engaging the process in countries of origin. The study found that PEPs, which include humanitarian visa schemes,[139] could be fairly used as "a complement to the existing territorial asylum system," prompting further discussion about implementation.[140]

In 2003, the Italian president convened Member States and institutional bodies to assess options for increased coordination. The European Parliament expressed support, but Member States did not, opting instead for state-specific autonomy. As articulated by The Migration Institute of Finland's Outi Lepola, the idea was "found too radical and did not get political

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[139] As well as formal resettlement and temporary admission.
[140] Jensen, 29.

support."[141] The Commission therefore decided against creating "a uniform law text on PEPs," deferring instead to the status quo.[142]

In 2008, European bodies creating the Common Code on Visas, standardizing policy governing short-term stay in the Schengen area. In the process, various institutions voiced support for the institutionalization of PEPs, with the Commission even mentioning humanitarian visas explicitly:

> Procedures for protected entry and the issuing of humanitarian visas should be facilitated, including calling on the aid of diplomatic representations or any other structure set up within the framework of a global mobility management strategy.[143]

As it had in 2003, Parliament signaled support again, compelling the Council to give "due consideration" to the use of mechanisms like humanitarian visas. The Council expressed accord, yet added considerations of restriction by speaking of "the necessary strengthening of European border controls." Even still, it noted that this necessity "should not prevent access to protection systems by those people entitled to benefit under them," suggesting the continuation of both humanitarian and security frames within institutional discourse.[144]

In December 2009, the European Council adopted the Stockholm Programme, a five-year framework of action regarding security, citizenship, asylum, and visa policy in Europe. It ignored calls from European institutions to build a framework for PEPs, and humanitarian visas in particular, centering instead on resettlement programs and policies of first asylum. And while Stockholm did call for "new approaches concerning access to asylum procedures," it

[141] Jensen, 32.
[142] Rampaer, 31.
[143] European Commission. "Communication from the Commission to the European Parliament and the Council: An area of freedom, security and justice serving the citizen."
[144] Jensen, 33.

simultaneously stipulated that Member States should participate in them "on a voluntary basis," thus removing any measure of coordinated legal accountability.[145]

By rejecting the Parliament and Commission's desires to coordinate PEP schemes and institutionalize humanitarian visa issuance, the Council gave a green-light for state discretion, one also supported by the aforementioned legal ambiguity. At the same time, it left the door open for the potential of facilitated movement, a fact not unnoticed by the Parliament. In its April 2014 review of the Stockholm Programme, the Parliament called on states to interpret the Visa Code intentionally, "mak[ing] use of the current provisions of the Visa Code and the Schengen Borders Code *allowing the issuing of humanitarian visas*" (emphasis added).

This dynamic of supranational support and "interinstitutional dispute" continued for years.[146] When negotiations advanced in 2014 on the European Visa Code and reforms, the Parliament's Committee on Civil Liberties, Justice and Home Affairs (LIBE) endorsed the inclusion of formal humanitarian visa frameworks, but "both [the] Commission and Council opposed the inclusion of provisions on humanitarian visas in the Visa Code, with the Council refusing to continue negotiations if these amendments were not withdrawn."[147]

European bodies eventually managed to amendment European visa policy, but they never formalized legal avenues through a coordinated and institutionalized approach to humanitarian visas. At the time of this writing, there still lacks an unified, institutionalized approach to humanitarian visas. However, in October 2018 the Parliament formally advanced a proposal for the institutionalization of humanitarian visas, at the end of a year that saw over 2,000 deaths at

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[145] Ibid, 34.
[146] Rampaer, 39.
[147] Humanitarian visas European Added Value Assessment accompanying the European Parliament's legislative own initiative report, 10.

sea. [148] It is not immediately apparent whether this appeal will resonate with European institutions, who have seesawed between support and dissent across time. In the interim, Parliament has asked the European Council to advance legislation formally harmonising protected entry by March 31, 2019. [149] The Council has not not, as of yet, formally communicated its intent.

As cited in the Parliamentary proposal, 90% of those granted international protection in 2018 reached European territory through irregular means. [150] This statistic, though sobering when considered alongside the perils of irregular entry, suggests that at least some legal avenues functionally exist, regardless of deadlock and negative discourse concerning entry. Even without trans-European coordination, there do exist examples of humanitarian visa issuance, though rare and small in scale. The following chapter analyses the most prominent example of humanitarian visa issuance in contemporary Europe: Italy's Humanitarian Corridors initiative.

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[148] Claire Higgins, "How a Visa for Asylum Seekers Could Grant Safe Passage to Europe," (2019).
[149] Ibid.
[150] Wouter Van Ballegooij and Cecilia Navarra. "Humanitarian Visas: European Added Value Assessment accompanying the European Parliament's Legislative own-initiative report" (2018).

This chapter assesses the Humanitarian Corridors initiative, a program started in Italy to administer visas to vulnerable refugees. It begins with an in-depth analysis of the initiative, focused on program structure, logistics, and relevant actors. It then considers the conditions of success that allowed for facilitated mobility, before addressing the potential for replication.

V.II Italy and The Humanitarian Corridors Initiative

On May 13, 2015, the European Commission implored Member States to make full use of existing legal avenues to facilitate asylum, "including private/non-governmental sponsorships and humanitarian permits."[151] In response, Italy opened Humanitarian Corridors, a state-sanctioned scheme to facilitate access to Italian territory through the provision of visas. The initiative extended LTV visas over a two-year period to refugees from Syria and Iraq residing in Lebanon, facilitating travel by plane and overseeing integration.

It is misleading to present the driver of this program as Italy alone, or even Italy at all. Not entirely a governmental scheme, Humanitarian Corridors is largely an ecumenical initiative, one organized and overseen by faith-based organizations. Three religious associations, the Community of Sant'Egidio (of Catholic denomination), the federation of the Evangelical Churches, and the Waldensian Churches (of Evangelical and Methodist denominations), together proposed the arrangement, and in December 2015 entered into a Memorandum of Understanding (MoU) with the Italian Home Office and the Italian Ministry of Foreign Affairs and International

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[151] European Commission. "Communication From the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions: A European Agenda on Migration."

Cooperation. The MoU, which is not legally binding, outlined the initiative and established procedures of operation, such as funding, screening, and responsibility. Within 24 months of implementation, 1,000 people had been granted legal access to Italian territory.[152]

The program finds its legal footing in Article 25 of the Visa Code, which, as previously discussed, allows Member States to issue visas on humanitarian grounds due to national interest or international obligations. Given that European institutions have failed to change relevant legal frameworks in dynamic response to need, the Humanitarian Corridors initiative presents, as explained in a policy briefing from the University of Sussex, "practical ways to work within the existing legal and political frameworks and to fill the gaps within them."[153] In this way, Humanitarian Corridors exist as 'soft law,' much like the approaches previously advocated by Alexander Betts (2010).

This is not the first time that states have enabled humanitarian visa issuance without supranational institutionalization, as evidenced by the Nansen coalition. But though theoretically similar to other humanitarian visa schemes, the Humanitarian Corridors approach is entirely unique; although it also works within existing frameworks, it targets applicants not only by geography but by vulnerability, and strictly delegates responsibility between church and state.

To facilitate mobility, the aforementioned religious organizations (henceforth referred to as faith-based organizations, or FBOs)[154] proposed a capacities-based division of labor between themselves and state actors, codified by the MoU. The state oversees advanced screening of

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[152] Gois and Falchi, 66.
[153] Collyer, Michael, Maria Mancinelli, and Fabio Petito. "Humanitarian Corridors: Safe and Legal Pathways to Europe."
[154] This thesis refers to all religious actors in the humanitarian sphere as FBOs, recognizing that some small and local actors such as individual houses of worship or groups may view themselves more as local communities rather than entire organizations.

applicants and the practical administration of visas, while the FBOs do almost everything else. They identify candidates, perform security checks, liaise between embassies and Italian ministries, coordinate travel, and lead integrative support such as Italian language classes and cultural immersion seminars. Lastly, and perhaps most importantly, FBOs foot the bill. As explained by Michael Collyer, Maria Mancinelli, and Fabio Petito (2017), "The Italian state bears no financial responsibility."[155]

An exact breakdown of the process from start to finish displays the symbiosis of relevant actors as well as the disproportionate burden that falls on civil society. The process begins with FBOs working with UNHCR to isolate potential applicants, facilitated by staff members on the ground in Lebanon working with local non-profits and trained to find vulnerable individuals most in need of protection. Potential applicants are categorized into the UNHCR's resettlement categories[156] before FBO workers conduct interviews to assess the level of priority (emergency, urgent, or normal). The Italian government then becomes involved for the first time in the process, conducting screening at overseas embassies (the local government also screens applicants). After extensive screening, the Italian consular in each country receives a list of "potential beneficiaries," to be screened by the Italian Ministry of the Interior. Continuing the governmental involvement, the Ministry of Foreign Affairs and International Cooperation takes the necessary steps to allow the issuance of visas, and the Italian consulate administers "visas with limited territorial validity in accordance with Article 25 of the Visa Regulation."[157]

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[155] Michael Collyer, Maria Mancinelli, and Fabio Petito. "Humanitarian Corridors: Safe and Legal Pathways to Europe," (2017).

[156] "Legal and/or Physical Protection Needs, Survivors of Torture and/or Violence, Medical Needs, Women and Girls at Risk, Family Reunification, Children and Adolescents at Risk and Lack of Foreseeable Alternative Durable Solutions," as provided by the Collyer, Mancinelli, and Petito (2017).

[157] Michael Collyer, Maria Mancinelli, and Fabio Petito. "Humanitarian Corridors: Safe and Legal Pathways to Europe," (2017).

FBOs re-enter the picture at this stage, taking control of the process. In countries of origin, they lead "awareness sessions" to orient each refugee to Italian society before they fly on a "specially designated Alitalia flight" to Rome's Fiumicino airport, where FBO volunteers await with welcoming signs, tea, and food. As explained by Claire Higgins (2017), FBOs even bring toys for the children, so that they are "able to play while their parents lodge all the paperwork," assisted by volunteers who walk beneficiaries through the asylum application.[158]

FBOs then place each refugee in an Italian community, housed by patrons, and begin integrative support by teaching Italian language classes and providing employment-based assistance. Community police departments oversee the processing of asylum applications, and once beneficiaries are granted status, Italy's Territorial Commission (which oversees requests for protection) allows local police to issue "permits of stay" that last for five years and can be indefinitely renewed.

Each refugee receives a decision within six months of arrival, which Higgins (2017) says contrasts with a two year average that awaits refugees who enter through other channels. "De facto their request for international protection is accelerated, as authorities know they come with HC [Humanitarian Corridors] and that they have already been screened."[159]

This system clearly provides administrative and cultural support, and it also enables preliminary financial stability. As refugees learn about Italy and seek employment, FBOs issue prepaid bank cards for a 12-month period, and require holders to attend monthly meetings with support networks. As such, Humanitarian Corridors provide not only legal access to territory but

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[158] Higgins, Claire. "How Do Italy's Orderly Humanitarian Corridors Work?" (2017).
[159] Ibid.

also integrative and social success, which is vital for long-term success but is often ignored in discussions of mobility.[160]

Altogether, the process of opening and operating Humanitarian Corridors exhibits a novel approach to protection, one defined by the joint efforts of civil society (mainly faith-based) and state actors. It also displays a scheme driven ostensibly by humanitarian concern; FBOs fund the initiative through patron donations and by opening their homes, implying at least some level of humanitarian impetus. But placed against the backdrop of failed coordination and narratives of securitization and externalization of asylum, the achievements of the Humanitarian Corridors initiative seem surprising, their momentum and consensus anomalous. The following section analyzes conditions that allowed for the success of Humanitarian Corridors.

V.III Italian Humanitarian Corridors: Conditions for Success

In the interest of transparency, this section begins by recognizing the dearth of state, institutional, and scholarly data about the Humanitarian Corridors initiative. Existing information comes almost exclusively from sparse and non-substantive newspaper reports, as well as statements published by the FBOs themselves, which tend to include numbers and dates but little to no information about negotiations (which were largely behind closed-doors), cross-country communication, or institutional discourse. It is additionally difficult to analyze this program given its recent implementation and the fact that as of this writing, no formal evaluation has been administered to measure its execution or impact.

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[160] Ibid.

This section will accordingly proceed by assessing what little is known about the conditions

of this initiative, in an effort to tease out tentative hypotheses that can be used as a foundation for

future research, conducted when more information is available. Rather than attempt to draw

broad conclusions--without sufficient evidence--this thesis will consider domestic determinants

and potential conditions, relying upon news coverage, political statements, framing devices, and

interviews.

When assessing the Humanitarian Corridors initiative, religion presents a logical place to

start. The entire scheme, after all, relies on the cooperation and resources of FBOs. A robust

body of literature explores engagement of religious communities in the humanitarian sphere,

with scholars detailing a rich history of resource provision. Jessica Eby, Erika Iverson, Jenifer

Smyers, and Erol Kekic (2011) analyze integrative support to call FBOs "instrumental" in

resettling refugees in the United States,[161] while Stephanie Nawyn (2005) holds that FBOs use

capital to help refugees "adapt culturally as well as financially."[162] Various studies[163]find a deep

involvement of FBOs in refugee resettlement and aid across the globe, particularly in terms of

cultural education, financial support, housing, and employment aid.

Academics focus also on the intangible resources afforded by FBOs, most notably advocacy

and political persuasion. Eby et. al. (2011) suggest that religious communities have long

exercised these powers, writing that "before the 1951 UN Convention on the Status of Refugees

and long before the US ratified the 1967 Protocol, churches and synagogues in the US were

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[161] Jessica Eby,, Erika Iverson, Jenifer Smyers, and Erol Kekic. "The Faith Community's Role in Refugee Resettlement in the United States," (2011), 586.
[162] Stephanie Nawyn. "Faithfully Providing Refuge: The Role of Religious Organizations in Refugee Assistance and Advocacy," (2005), 31.
[163] See Orji (2011), Wilson (2011), Fiddian-Qasmiyeh (2011).

responding to refugee needs and advocating for policies to protect refugee rights."[164] Michele

Margolis (2018) also writes of religious organizations as activist actors, discussing the

Evangelical Immigration Table, a coalition of Christian evangelical leaders who support liberal

immigration policies, and their successful attempts "at demobilizing evangelical opponents of

immigration reform."[165]

The scholarship suggests that FBOs are separate but not entirely isolated from political or

governmental organizations, and that they possess a potent ability to provide protection, lobby

administrative bodies, and even sway opinion. They are, in essence, global actors that "share

many characteristics with their secular counterparts and are influenced by the same political,

social and economic contexts."[166] With these considerations in mind, this thesis now considers

how the specific FBOs involved in the Humanitarian Corridors initiative leveraged their

positions and resources to successfully negotiate with state governments and facilitate mobility.

Negotiations began after Italian FBOs[167] announced a proposal in April 2015, launched in

advance of an ecumenical leadership conference in Bari called "Christians in the Middle East -

What Future?" According to press releases by the Community of Sant'Egidio[168] the impetus for

the proposal was the increase of deaths in the Mediterranean, with a particular focus on "the last

tragedy off Libya," referring to the April 2015 incident in which 850 drowned near the coast of

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[164] Jessica Eby, Erika Iverson, Jenifer Smyers, and Erol Kekic. "The Faith Community's Role in Refugee Resettlement in the United States," (2011), 589.

[165] Michele Margolis, "How Far Does Social Group Influence Reach? Identities, Elites, and Immigration Attitudes," (2018).

[166] Elizabeth Ferris. "Faith-based and Secular Humanitarian Organizations" (2005).

[167] The Community of Sant'Egidio, the federation of the Evangelical Churches, and the Waldensian Churches.

[168] These releases were written in Italian. The author of this thesis does not speak or read Italian, so quoted material has been translated using computer software, and may therefore not be entirely precise.

Libya.[169] Paolo Naso of the Federation of Evangelical Churches in Italy (FCEI) traces the

motivation even earlier, stating that "it was the disaster of Lampedusa on October 3, 2013 that

opened our eyes – although this was unfortunately not the last catastrophe in the Mediterranean

Sea...we are very conscious of the fact that we have to do something!"[170]

The Sant'Egidio communication and Naso's remarks suggest the Humanitarian Corridors

grew primarily as an immediate reaction to recent events, bolstered by geographic proximity to

the Central Mediterranean Route. These motivations feature prominently in the initiative's

framework; while a specific proposal was not made public,[171] the objectives of the scheme were,

and their framing supports this theory:

1. To avoid journeys on the boats in the Mediterranean, which have already caused a high
   number of deaths, including many children;
2. To avoid human trafficking, preventing the exploitation of human traffickers who do
   business with those who flee from wars;
3. To grant people in "vulnerable conditions" (victims of persecution, torture and violence,
   as well as families with children, elderly people, sick people, persons with disabilities)
   legal entry on Italian territory with humanitarian visa, with the possibility to apply[172] for
   asylum.[173]

Together with the Sant'Egidio press release and a timeline tied to the Libyan tragedy, these

objectives suggest that that initiative was motivated, at least in part, by concerns of human rights

and dignity. The focus on "vulnerable" individuals as well as avoiding Mediterranean drownings

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[169] Anthony Faiola. "U.N. Estimates up to 850 Migrants Perished in Capsized Boat off Libya" (2015).

[170] Benoit Lannoo. "Italian Foreign Affairs Minister Urges Colleagues to Copy Initiative of 'Humanitarian Corridors' – The Guest Blog" (2016).

[171] In the absence of a public proposal, the Community of Sant'Egidio released a brief description of Humanitarian Corridors, characterized as "linked to European consulates, to which asylum seekers can be contacted to obtain a visa that allows them to safely tackle the journey to safety."

[172] Note that unlike the ECRE, which ruled against LTV visa issuance to individuals intending on applying for asylum, the Humanitarian Corridors initiative explicitly condones that intent, leaving open the "possibility" to apply.

[173] Comunità Di Sant'Egidio. "Humanitarian Corridors for Refugees." (2018).

and human exploitation frames the initiative in humanitarian terms, rather than purely legal

terms. In this way, the initiative is inherently distinct with regard to inception and impetus from

the Nansen scheme, which, as previously mentioned, centered on geopolitics, world order, and

legal status. The Humanitarian Corridors program differs in that it contains elements of legal

considerations and works within existing frameworks, but grew from actors whose primary

concerns were not themselves legal.

At the 2015 Bari summit, various religious leaders (including those involved and uninvolved

in the initiative) addressed the need for collective action, as well as a divine duty. Bishop

Angaelos of the Coptic Orthodox Church, for example, spoke of "standing for a common cause

of humanity," and articulated the unique position of the religious community in perilous times:

> Not everyone in the world is as well-meaning as people around this table. There are
> opportunists, there are political opportunists who if we do not claim this issue, they will
> claim it and they will speak to it for their own purposes, and they will not benefit our
> brothers and our sisters who are very much in need.[174]

Bishop Angaelos' comments imply the call to action is grounded in religious obligation. In

this way, his words mirror what Eby et. al. (2011) express when they state that often FBOs

demand and mobilize action "not because they had a formal mandate to do so, but because they

felt a moral obligation to respond to human suffering."[175] Luca Maria Negro, President of the

FCEI, invoked similar appeals in expressing his satisfaction with the project, arguing: "it cannot

[174] Anba Angaelos. "Christians in the Middle East - What Future? - HG Bishop Angaelos, Italy," (2015).
[175] Jessica Eby, Erika Iverson, Jenifer Smyers, and Erol Kekic. "The Faith Community's Role in Refugee Resettlement in the United States," (2011), 589.

be that in Italy today there is still no space for a woman who needs to give birth, just like Jesus' mother at Christmas."[176]

Statements by relevant stakeholders as well as the history of faith-based advocacy support a firm conception of why FBOs initiated the Humanitarian Corridors, which, for the purposes of this study, bears great importance. Faith and care for humanity as motivators of humanitarian action are conditions for success, and necessary ones at that; this specific initiative could not possibly have existed without the buy in of FBOs.

However, these conditions only explain half of the puzzle--why did the Italian government agree? Some argue that the government agreed simply because the program comes at no financial cost to the state. Alessia Melillo, who works for a branch of the Federation of Protestant Churches in Italy (FCEI) called Mediterranean Hope, spoke to this consideration in an interview conducted for this thesis. Melillo has worked for Mediterranean Hope for ten years, and now specializes on Humanitarian Corridor initiative.[177] Melillo believes that FBOs persuaded the government largely by focusing on arrangements of cost and responsibility.

> We got the Italian government to agree because there are no expenses for them. They have no expenses and don't have to think about anything because the reception system is up to us-- we provide the travel, the tickets for the plane to come to Italy, and we provide the bucket money to beneficiaries and we provide the accommodation. So the state --we needed the state to get permission to start the project-- but the state doesn't have to take care of the program at all...as soon as they get on the plane, the responsibility is all up to us.[178]

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[176] "Sant'Egidio: Humanitarian Corridors Open for One Thousand People" (2015).

[177] Alessia Melillo did not disclose whether or not she herself was present during the negotiations, but she spoke of meetings with government officials fluently, in detail, and using pronouns that suggested her attendance, implying that either she was present as an active member of the negotiations, or that as a long-standing employee of the FCEI, she is privileged with information about the negotiations that is not otherwise public. This adds credibility to her statements.

[178] Alessia Melillo, phone interview by author. February 14, 2019.

Melillo's statements suggest that one condition of success for the Italian initiative is its funding scheme, which was built to relieve burden and pressure from the state. Given the near totality of a hands-off approach afforded to the government by this arrangement, this hypothesis seems likely. However, it falls short of supporting a solid conclusion of why the government actually acted on the proposal; the state was not legally bound to do anything, and could simply have elected to do nothing, which would also have presented no financial burden.

Relying on statements made by Italian officials, framing devices, and select interviews, this thesis now builds upon the lack of state burden to advance a tentative hypothesis concerning vulnerability, Italian gain, and state prominence.

On June 10, 2016, the Italian Ministry of Foreign Affairs and International Cooperation published an official description[179] of the Humanitarian Corridors initiative online.[180] The webpage is short, less than 500 words total, and it frames the program in two different ways: in terms of reducing the threat or danger associated with refugees, and in terms of the benefit to Italy. The first framing comes from discussions of vulnerability and security. In discussing the program, the Ministry clarifies that the Corridor is only for people in "particularly vulnerable conditions," a category it defines as including victims of human trafficking, single women with children, the elderly, disabled individuals, and people with severe illnesses.[181] To further assuage concerns of safety, the Ministry writes that the scheme is a "way of also meeting our need of security," given the stringent and multi-layer screening involved in the process. As such, the

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[179] This description exists as one of the only accessible state-published explanations of the scheme.
[180] By the date of publication, refugees had already begun arriving and beginning the process of resettlement and integration.
[181] This phrasing closely resembles the wording employed by Sant'Egidio on its website: "Single women with children, victims of human trafficking, the elderly, and the disabled."

Ministry presents to the Italian people an image of refugees far removed from that propagated by right-wing movements and anti-immigrant groups: innocent, safe, and rigorously screened humans, desperately in need of help.[182]

The Ministry frames Humanitarian Corridors not only as helping others, but also as helping Italy. It does so by outlining the scheme's funding as well as its potential replicability. After explaining the exact breakdown of funds (0.8% income from members of the Waldensian Church, 0.5% of income tax payments from members of the Community of Sant'Egidio, and private donations) to illustrate no financial burden on the state, the Ministry encourages replication and expresses that Humanitarian Corridors can bestow honor upon Italy. "[It] is a model of solidarity that is a source of pride for Italy, as also Pope Francis said: "it is the drop that will change the sea.""[183]

A clear focus on vulnerability and Italian gain emerges from these framings,[184] one that is mirrored in public statements of Italian officials. Former Prime Minister Paolo Gentiloni, who served as the Minister of Foreign Affairs during the program's inception, spoke and tweeted often with parallel sentiment. In September 2016, he addressed the UN Summit on Refugees and Migrants to laud "the great humanity of the Italian people in receiving those who land every day on our shores," and highlighted that beneficiaries were the "most vulnerable among migrants. I am thinking particularly of women and unaccompanied children."[185]

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[182] Humanitarian Corridors." Ministry of Foreign Affairs and International Cooperation (2016).
[183] Ibid.
[184] The Ministry of Foreign Affairs and International Cooperation is the main body of the Italian government that oversees this program, and as such, its framing lends insight into what it prioritizes and views as beneficial aspects of the initiative.
[185] Paolo Gentiloni. "Statement Delivered by the Minister of Foreign Affairs and International Cooperation of Italy, Hon. Paolo Gentiloni, at the UN Summit on Refugees and Migrants," (2016).

Gentiloni used similar messaging in other public statements, often tying the importance of helping refugees with the benefit brought to Italy in combating human traffickers. In a tweet, he called Humanitarian Corridors a "clear message against human traffickers" and a "good Italian example the world should follow."[186] And in a December 2017 statement, Gentiloni called the efforts an "historic transition from immigration managed by criminals to controlled, legal and safe migration."[187] Deputy Secretary of the Council of Europe Gabriella Battaini-Dragoni invoked parallel framing in a 2017 address in Strasbourg, referring to beneficiaries as "the most vulnerable" and the program as an "alternative" to the "smuggling of migrants."[188]

Put together, these statements and more indicate that Italian state officials often employ identical framing when discussing the Humanitarian Corridors initiative, focusing on vulnerability and mutual safety (refugees as non-threatening, extensive screening, combating human trafficking), as well as Italian pride. This suggests that the government viewed these lenses as acceptable and maybe even strategic messaging, but it fails nonetheless to fully highlight conditions of success, or explain exactly why the government agreed to this undertaking in the first place.

One tentative hypothesis comes from interpreting these frames in conjunction with the time-bound and geopolitical context in which they were constructed. It is unlikely a coincidence, for example, that the Humanitarian Corridors initiated in Italy, a country that faced intense pressure to respond to the crisis in the wake of high-profile and proximate disasters like the 2013 and 2015 respective Lampedusa and Libya drownings. Bodies and boats washing up on Italian

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[186] "Migrants: Gentiloni, Corridors a Good Italian Example," (2016).
[187] Agence France-Presse. "Italy's Migrant Crisis Saw a Huge Turning Point in 2017," (2017).
[188] Gabriella Battaini-Dragoni. "Humanitarian Corridors: An Alternative to Human Trafficking in the Mediterranean," (2017).

shores produced immediate and palpable urgency, exacerbated by a lack of response[189] by

European countries. Since Europe's reaction was, in the words of Paolo Naso, to "reduce the

Lampedusa problem to be an Italian problem," the Humanitarian Corridors initiative appeared

entirely pragmatic, a measured response to a seemingly immeasurable problem.[190] As articulated

by Gentiloni, this specific scheme would allow Italy to "not be pretending that the problem does

not exist" while also "managing it humanely and safely...there is a reliable path we can take."[191]

Inherent in this remark, and supported by the previous analysis, is an almost resigned

understanding that Italy had do *something,* and that the Humanitarian Corridors initiative was

simply the most palatable option. As such, this particular scheme encapsulates what legal scholar

Catherine Dauvergne (2015) refers to as the "ongoing tension in the nation's desire to be

perceived as humanitarian and good yet firmly in control of its sovereign borders."[192]

The funding, scope, security, and messaging of this scheme allowed for the specific and

successful alleviation of this tension. The funding framework allowed Italy to provide costly

assistance with no burden on the budget, thus avoiding popular dissent and unhappy taxpayers

questioning why their money need pay for foreigners. The program's breadth similarly eased

strain by endorsing a 1,000-person cap bound to a two-year timeframe, rather than opening

borders drastically or facilitating indefinite mobility. And the rigorous screening of beneficiaries

allowed Italy not only to ease concerns about dangerous newcomers, but also to argue that the

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[189] In 2015, UN High Commissioner for Refugees declared that Europe's response was "not enough," and that "[W]hen we have a situation like this, the first priority is to save lives. People are dying, you rescue them. Europe is a rich continent….It would be natural that a meaningful amount of resources would be devoted to this question."

[190] Benoit Lannoo. "Italian Foreign Affairs Minister Urges Colleagues to Copy Initiative of 'Humanitarian Corridors' – The Guest Blog" (2016).

[191] Agence France-Presse. "Italy's Migrant Crisis Saw a Huge Turning Point in 2017," (2017).

[192] Catherine Dauvergne. H*umanitarianism, Identity, and Nation: Migration Laws of Australia and Canada,* (2015), 58.

initiative actually enhanced safety: in the words of Impagliazzo, security "will be at its max compared to those arriving on the boats, because thorough checks will be carried out and digital fingerprints taken."[193]

These aspects of the program afforded messaging that paints Italy as a strong state responding dynamically to a humanitarian crisis with innovation and generosity, all while strengthening the security of Italy and the wider Mediterranean. When viewed in this light, it seems logical that the state would agree to such a scheme, especially at no financial cost. The evidence thus implies that Italy agreed to the scheme because facilitating Humanitarian Corridors allowed a practical and public response, one that simultaneously addressed a pressing problem while also bringing publicity to Italy. Pope Francis even lauded the initiative in 2016, expressing his express "admiration for the initiative of humanitarian corridors," a "concrete sign of commitment to peace and life."[194]

This hypothesis gains credence when considered with the fact that Italian officials and FBOs have since launched campaigns to encourage other states to follow Italy's example in opening Humanitarian Corridors. While greeting refugees at the airport in 2016, for example, Gentiloni publicly expressed his hope that "that the concept of the 'humanitarian corridors' will soon also be adopted by other European Member States."[195] Since then, relevant stakeholders have held meetings with religious communities and diplomatic leaders in other nations to encourage replication. At a 2018 summit with representatives from France, Greece, Cyprus, Portugal,

[193] "Sant'Egidio: Humanitarian Corridors Open for One Thousand People" (2015), Vatican Insider World News.
[194] Linda Bordoni. "Syrian Refugees Arrive Safely in Rome Thanks to 'Humanitarian Corridor,'" (2018).
[195] Benoit Lannoo. "Italian Foreign Affairs Minister Urges Colleagues to Copy Initiative of 'Humanitarian Corridors' – The Guest Blog" (2016).

Malta, and Spain, Italian Finance Minister Pier Carlo Padoan stated that "Italy can no longer continue to pay for everyone, in financial terms as well as in terms of political effort."[196] In other words, Italy has communicated on domestic and international stages that the refugee crisis concerns all of Europe, and that Italy has done more than its fair share.

Italy's lobbying of nearby countries introduces the possibility that a contributing condition of success is the desire to posture as a humanitarian and geopolitical leader. Vicki Squire (2016) speaks to this theory, writing that "Italy appears keen to demonstrate political leadership in this area," particularly since the "programme comes at a relatively low price" to the Italian state.[197] Claire Higgins expressed this same sentiment in a 2017 podcast, suggesting that Italy supports the initiative because "the corridors are a minimal effort by states, but they are presented as maximum generosity. The generosity is really coming from non government organizations."[198]

In theoretical terms, framings of vulnerability and Italian gain are not too different from each other; both allow governments to portray themselves positively. In her 2005 book on benevolent migration policy in Australia and Canada, Catherine Dauvergne writes of the importance of humanitarian action in crafting state identity. Conceptualizing humanitarianism as a mirror that reflects back on the country and out to the world, Dauvergne expresses the unique utility of empathetic migration policy:

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[196] "Migrants Top Agenda at EU's 'Southern Seven' Meeting in Rome" (2018).
[197] Vicki Squire. "Humanitarian Corridors: Beyond Political Gesture," (2016).
[198] Claire Higgins. "How Do Italy's Orderly Humanitarian Corridors Work?" (2017).

Humanitarian admission does not serve the nation by "filling gaps in the economy[199] --admitting people because of the value they bring 'us.' Nor does it fit in with an ideological vision of community or family--admitting people because they are 'us.' It does, however, mark the nation as good, prosperous, and generous. That contribution is vital.[200]

The generosity Dauvergne mentions is underscored, in the Italian case, by the aforementioned focus on vulnerability by politicians, FBOs, and the media. Consider, for instance, that Italian newspapers seized upon the fact that one of the first to benefit from the scheme was seven-year old Falek Al Hourani, a Syrian girl with cancer in one eye. Above pictures of the child and her gauze-covered face, headlines proclaimed: "Syrian cancer kid first to use Italy humanitarian corridor,"[201] "Girl with cancer first to use humanitarian corridor,"[202] and "Syrian cancer patient, 7, flown to Italy."[203]

The story of Falek's journey was published in European, Australian, Syrian and American newspapers, communicating to the world the image of Italy as savior. In a phone interview conducted for this thesis, Claire Higgins commented on this dynamic, suggesting that a vital aspect of the Humanitarian Corridor's success is its focus on vulnerability and provision of a "counter narrative" to negative conceptions of refugees.

> When each group flies in about every 3 months, that is a photo opportunity. There are media there, there's a press conference, there's a representative from the government that speaks for the government….it's very much publicized as demonstrating Italian hospitality to these groups of people who are very well understood to be in need, so I think for me, the entire thing is structured as something to be promoted.[204]

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[199] This thesis does not endorse the idea that humanitarian admission fails to benefit national economic prospects. Strong bodies of evidence suggest that refugees and immigrants actually stimulate economies.
[200] Dauvergne, 7.
[201] "Syrian Cancer Kid First to Use Italy Humanitarian Corridor," (2016).
[202] "Girl with Cancer First to Use Humanitarian Corridor," (2016).
[203] "Syrian Cancer Patient, 7, Flown to Italy," (2016)..
[204] Claire Higgins, phone interview by author. February 19, 2019.

This agreement benefits the state, migrants, and FBOs. Higgins adds that FBOs recognize that

their motivations differ from those of state actors, but that if public campaigns are "what's

required for them to have these visas provided, then that's a small price to pay for saving

people's lives."[205]

In assessing the conditions that allowed for the successful opening of Humanitarian

Corridors, it therefore seems necessary to consider geopolitical advantage and vanguard status.

Italian officials have not publicly admitted to motivation by personal gain (other than the benefits

of increased domestic and Mediterranean security), but the optics and advantages of international

leadership, as well as a lack of state burden, imply incentives of self-interest. As articulated by

Dauvergne (2015):

> Humanitarianism is about identity. The individual identity of the other who benefits from
> our grace is important, but only because of the light it reflects back on us. When we
> admit the deserving, we are good. We bestow grace and hold up that mirror to admire
> ourselves....humanitarianism in migration law is often a self-serving ruse.[206]

Most striking in this quotation is not the assertion that humanitarianism is "self-serving," but

rather the claim that the identity of the beneficiary reflects certain light upon the benefactor. This

introduces a final consideration in the analysis of the Italian case: who benefits, who does not,

and why?

This thesis has already established that the program targeted the most vulnerable, a category

Italy defined in terms of age, trafficking status, health, and disability. But a more potent targeting

involved geography: over 98 percent of those admitted were of Syrian origin.[207] Alessia Melillo

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[205] Ibid.
[206] Dauvergne, 164.
[207] Michael Collyer, Maria Mancinelli, and Fabio Petito. "Humanitarian Corridors: Safe and Legal
Pathways to Europe," (2017).

suggested in her interview with the author of this study that FBOs convinced the Italian government to open Humanitarian Corridors because "everybody knows that in Syria there is a bleak and long war lasting for years, so everyone has to admit that there is a big problem. So they had no problem to say 'yes the Syrian refugees can come.'"[208]

Melillo disclosed additional information about the "several rounds of meetings and discussions" between FBOs and the government that suggest not only a state-readiness to accept Syrians, but a refusal to accept others. Speaking from her office in Rome, Melillo stated that the government was open to the proposal "because Syrian people are not the African people." When asked to elaborate, Melillo explained that the FCEI approached Italy about opening additional Corridors in Africa and was swiftly rejected.

> There are no problems with Syrian refugees, but then if we ask for other people from other countries which are suffering from other problems which are not the Syrian war, then the matter is different and we received a no …[they] could not say no to admit Syrian refugees to come to Europe because everyone knows about this terrible situation in Syria, but about migrants from Africa it's different because they believe that they are economic migrants and Europe is saying no to economic migrants.[209]

The above statement introduces several complex considerations, including 'hierarchies of deserving' with regard to aid, disputed refugee status, and potentially even questions of racism. For the purposes of this discussion, though, it serves mainly to illustrate that, if taken to be true, the Italian government agreed to this scheme only insofar as it benefitted a particularly sympathetic class, to the detriment and exclusion of others. Of course it is important to note that this is only one account from one relevant actor, speaking about proceedings which are largely undisclosed and inaccessible, reserving the need for at least some degree of skepticism.

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[208] Alessia Melillo, phone interview by author. February 14, 2019.
[209] Ibid.

However, this account cleanly coalesces with the previously discussed narratives of vulnerability and dynamics of state-discretion. It also exhibits historical continuity: the Nansen scheme, after all, featured similar constraints regarding nationality, restricting travel documents at first only for Russians, and then expanding selectively to other groups. This is a consideration to which this paper will return in the conclusion.

In summary, a preliminary analysis of communications made by FBOs and state actors suggest several conditions of success contributing to the Italian Humanitarian Corridors. On the part of religious stakeholders, faith-based concern for humanity and a subsequent sense of duty sparked action, advocacy, and an allowable arrangement that placed a disproportionate onus on Christian communities relative to the state. With regard to governmental stakeholders, the need to respond to a physically present problem and the option of a financially burdenless response encouraged the government to acquiesce, while framings of (selective) vulnerability incentivized Italy through publicity and perception. Given the paucity of public and substantive information regarding Italy's Humanitarian Corridors, it is not presently possible to isolate the relative weight of these conditions, though existing research presents the strongest case in favor of political expediency and international recognition.

V.IV The Potential for Replicability

A potentially related factor of success is replicability. Perhaps surprisingly given Melillo's comments, just one year after opening with a focus on Syrian refugees in Lebanon, Italy's Humanitarian Corridor extended to Ethiopia,[210] resettling 500 vulnerable people of Eritrean,

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[210] This growth of the initial program was funded by funded by FBOs Caritas and the Italian Catholic Bishops' Conference.

Somali, and South-Sudanese descent.[211] Next the Republic of San Marino signed on, agreeing to resettle a small cohort of refugees within its tiny borders.[212] And on March 14, 2017, former French Minister of the Interior Bruno Le Roux and former Secretary of State for Cooperation Jean-Marie Le Guen signed a protocol with five French FBOs to open a humanitarian corridor between France and Lebanon, transforming *Corridoi Umanitari* to *Couloirs Humanitaires*, and resettling 500 refugees in the process.[213] At the time of this writing, Italy, San Marino, France, Belgium, and Andora have all opened Humanitarian Corridors.[214]

The question of replication is particularly noteworthy given that, with this specific program, each state retains control over its own implementation, which differs from the intergovernmental coordination that characterized Nansen's initiative. While Humanitarian Corridors contain several constants such as the consistent priority of safe and entry, as well as FBO support in the form of funds and hospitality, the scheme allows for flexibility of operation depending on the mechanisms and peculiarities of each state; countries keep control over scale, funding, collaborative partnerships, integration, and legal frameworks.

The French system, for example, differs from its Italian counterpart on the legal basis of its Corridor. Whereas Italy administers LTV visas on the grounds of Article 25, France does not engage with Article 25 at all, choosing instead to operate within domestic frameworks to issue

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[211] Given Alessia Melillo's comments about Italian resistance to opening Humanitarian Corridors in Africa, the expansion to Ethiopia seems strange. Little public information exists about this arm of the initiative, but existing press releases (notably by Caritas and UNHCR) and news coverage highlight the fact that the beneficiaries all came from Ethiopian "camps," perhaps suggesting that by pulling each beneficiary directly from a refugee camp, the initiative successfully overcame concerns of voluntary economic migration.

[212] Collyer, Michael, Maria Mancinelli, and Fabio Petito. "Humanitarian Corridors: Safe and Legal Pathways to Europe.

[213] "Des Couloirs Humanitaires Pour Les Réfugiés En France à Partir D'aujourd'hui ; L'accord Signé Ce Matin à L'Elysée." Sant'Edigio.

[214] "Humanitarian Corridors: Andorra Opens to Refugees." Sant'Edigio.

D-Visas, a form of travel document that presupposes long-term residence. In this way, France localizes the process within its own law, tailoring the process to administer a visa that is "strictly for asylum and specific to France."[215]

    As evidenced by the aforementioned supranational tension regarding coordination, a prevailing preference for individual policy often hinders visa issuance. The French example shows that this hurdle can be overcome, and suggests that the Humanitarian Corridors initiative spread, at least in part, because it allows national control over border management. Without greater access to documents detailing inter-state negotiations, it proves challenging to assess the extent to which this consideration actually factored into each participating government's calculus, yet the transferable success of this initiative amidst ongoing disputes of coordination presents a compelling case for state-specific flexibility as a condition of success.

    A lack of expansive hindsight or government transparency makes the Humanitarian Corridors initiative difficult to analyze, yet the initial findings of this study prove nonetheless compelling as contributions to mobility discourses. The apparent factors of the Humanitarian Corridor initiative's success are actor and context-specific, as evidenced by the division of responsibility, varying motivations for action, and public response and perception. The following and final chapter considers these factors in conjunction with the Nansen period, advancing tentative conclusions and exploring necessary avenues of future research.

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[215] Michael Collyer, Maria Mancinelli, and Fabio Petito. "Humanitarian Corridors: Safe and Legal Pathways to Europe," (2017).

Section VI. Conclusions and Implications

In discussing Italy's Humanitarian Corridors initiative, Claire Higgins (2019) called the program a "counter narrative" to mainstream discussions of refugee mobility, addressing its unique approach to protection and its focus on the humanity of beneficiaries.[216] This thesis, in its own way, exists also as a counter narrative; rather than focus on barriers to mobility, as much scholarship does, it assesses the potential to overcome those barriers, drawing from relevant historical examples of facilitated mobility.

Building upon literature of migrant routes to Europe, restricted access to asylum, and the asymmetric interpretation of legal frameworks, this thesis poses a critical and consequential question: what conditions allow refugees and asylum seekers to safely access European territory through mechanisms of facilitated mobility? In an attempt to answer that question, this paper employed a comparative case study analysis, as well as exposition of the evolution of legal frameworks and institutional landscapes.

The first case study analyzed Fridtjof Nansen's scheme to provide legal status and mobility to refugees in the wake of the Russian revolution. This case study proved fruitful to study because of its mass scale, level of institutional involvement, and because it unfolded without the assistance of existing legal instruments or frameworks. It terms of utility as half of a comparative case study analysis, it also afforded the ability to assess the first recorded large-scale example of travel documents issued to refugees, allowing potential comparisons to later visa schemes.

The analysis of Nansen's passport program isolated several conditions of success. Most clearly, geopolitical dynamics involving war-related fatigue and proximity to Russian émigrés

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[216] Claire Higgins, phone interview by author. February 19, 2019.

encouraged Europe to facilitate mobility, given the importance of preserving a healing continent and the destabilization that would result from an influx of people lacking means of movement. Additionally, perception of common and existential threat promoted action, since the issuance of travel documents to former-Russian citizens served as a bold act of defiance against communism.

As such, the conditions allowing for success during the Nansen era were intensely situational in terms of political and geographic landscapes. A pressing problem threatened Europe, and Nansen's proposal created a logistically pleasing solution, one that simultaneously worked to stabilize the region and reject communism. National interest and international obligation aligned, unlike in Canada where the two clashed.

The determinants of success were therefore defined by legal and structural factors, detached from considerations of humanitarian duty or moral sway. It is worth noting, also, that the Nansen period lacked established frameworks, and built its own institutional capacity. The following decades experienced an explosion of institutionalization and framework formation, though the results were ambiguous, leaving room for interpretation and state-specific discretion.

The second case study analyzed Italy's Humanitarian Corridors initiative, a worthwhile program to study given its potential for replication and its adroit facilitation of mobility in the face of supranational tension and state-specific discretion. Its proximity to migrant flows and the usage of travel documents (humanitarian visas) similarly benefitted this study by retaining continuity with the Nansen era, enabling the comparative approach.

Though hindered by a lack of available data, analysis of the Humanitarian Corridors scheme isolated a host of potential determinants of success, all of which prove promising as leads for further investigation. A primary factor was the religious sense of obligation exhibited by

FBOs;[217] without such motivation, the constituent organizations would unlikely have approached the state, and they almost certainly would not have agreed to such an unequal arrangement of responsibility.[218] This points to the second factor: lack of financial burden on the Italian state. The scheme presented an incredibly low-cost response to a high-cost problem, palatable in terms of funding, scope, and lack of institutional legwork.

The existing data therefore suggest that this scheme succeeded in facilitating mobility because the government was faced with a pressing problem and presented with a convenient solution. The initiative was convenient not only logistically but also politically and optically. Careful framing isolated the benefit to Italy and highlighted the state's generosity in receiving the most vulnerable, allowing the Corridors to paint Italy as a defender of the defenceless, a model of action rising from a sea of inaction. The conditions for success with this initiative therefore stem from multiple considerations and actors, but ultimately center on state convenience and the ability to spin a low-cost, low-volume program into an international example of political leadership and generosity. As with the Nansen period, national interest and global responsibility fused.

On one hand, the two respective cases are not fully comparable given that they represent an evolution: each operated in wildly different times with actors making use of wildly different

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[217] It is worth noting that not all religious communities and organizations act on religious duty. After the Pope called on Catholic churches to host refugees, a faction of the Polish clergy responded, according to Mazepus and Berardi (2016), that: "the Pope's words about refugees were not dogma." Other clergyman rallied behind the Pope's call, voicing support and opening negotiations with the government. This suggests that not all people or communities of faith prioritize religious obligation equally.

[218] The role of religious organizations and obligation clearly aided the Humanitarian Corridors initiative and served as a primary catalyst. The impetus of Nansen's scheme lacked this religious consideration, implying that while several ties exist between the two initiatives, other aspects remain time-bound and context-specific.

tools. On the other hand, both present striking examples of movement in the face of restriction, and as such, overlaps between their determinants introduce the potential for wider conclusions.

Four main parallels exist between the two eras, linking specific conditions of success to a deeper and tentatively generalizable discussion of mobility. First, both Nansen and the Italy's Humanitarian Corridors restricted access to their schemes. In the 1920s, refugee travel documents were initially reserved for people of Russian descent, and only later selectively extended on a country-of-origin basis. Italy's Humanitarian Corridor was similarly prohibitive, issuing visas almost exclusively to Syrians before extending cautiously to others. This suggests that perhaps movement is more easily facilitated when nationally limited, tied tightly to specific subgroups. It additionally suggests that schemes may operate iteratively, expanding only after seeing and assessing the results of the initial program (for instance, Italy saw positive responses with its Syrian intake, and therefore spread. The same argument applies to Nansen).

The second parallel involves the reactionary nature of each scheme; both initiatives grew in response to a palatable problem (an influx of stateless people for Nansen, increased drownings and trafficking for Italy). In this way, proximity seems a vital consideration, as does the perception that some sort of action is required. This implies that mobility is facilitated for refugees not on normative or standard grounds, but rather as a steam valve to relieve pressure from pressing problems (whether the program actually alleviates the crisis, as with Nansen, or merely gives the illusion of substantive aid, as with Italy's Corridor, is an entirely a different matter).

A third similarity involves the ability of states and relevant actors to facilitate mobility without definitive legal mandate. The Nansen scheme existed prior to the creation of legal

frameworks regarding refugee rights and affordances, operating through institutional directives.

The Humanitarian Corridors initiative, while operating within EU and Schengen legal

frameworks, also lacked formal instruction by law, given the ambiguous code and a preference

for state-discretion. This indicates that attempts at mobility can succeed without the full support

of legal systems, given that relevant actors fully invest and provide innovative approaches.[219]

The fourth and final analog is the potentially-incendiary statement that neither case of

facilitated mobility stemmed from humanitarian concern. This argument is easy to make for the

Nansen scheme given the League of Nation's focus on legal status and global order, as well as

Europe's collective interest in curbing communism. The argument is harder to make (and more

controversial) with the Italian case, given that the stated intent of its Humanitarian Corridors is to

reduce human trafficking and protect the most vulnerable. However, evidence suggests that the

motivation was more self-serving than the framing leads one to believe. Consider, for instance,

that Italy's program was only extended to approximately 1,500 people, but was billed as a model

of generosity and goodness around the world. As the Nansen passports benefitted Europe by

providing stability and rejecting communism, the Humanitarian Corridors benefitted Italy in

terms of identity and leadership, suggesting that mobility is facilitated, at least in part, when it

serves self-interest.

Taken together, this analysis provides compelling considerations and introduces potential

implications for policy. First and foremost, this study serves as a reminder that states and

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[219] A refugee advocate may take issue with this argument, positing that a legal mandate does indeed exist (in the form of the 1951 Convention) and that states ignore that mandate by only executing limited schemes of mobility. This thesis holds that although legal frameworks exist, they fall short of a mandate because of ambiguous wording. The 1951 Convention, for examples, calls on states to give "sympathetic consideration" to refugees who cannot obtain travel documents, but fails to define that phrase or explain its practical implications.

relevant actors can in fact facilitate refugee mobility, and that narratives of crisis and securitization, while valid, serve to distract from this vital and life-saving capacity. When assessing potential responses to forced migration, the issuance of travel documents should and must be a consideration. In applying the wider lessons of Nansen and the Humanitarian Corridors, policy-makers need remember the paramount importance of burden-sharing, as well as the importance of mutual benefit. Dropping the guise of selfless aid, policy-makers must craft context-specific and dynamic schemes that benefit the benefactor as well as the beneficiary, ideally also building consensus between states and actors to reduce strain on any one sponsor. Following the examples of the two discussed cases, policy-makers should explore normative approaches of soft-law, understanding also that a clearer codification of law would likely allow for higher levels of safe and legal mobility.

This thesis has labored to proceed with transparency regarding its limitations. The first regards the lack of existing scholarship on refugee mobility. While academics have written extensively on migration, and increasingly on barriers to mobility, few have taken a critical and historical look at times when institutions and states have overcome those barriers. This presents an important gap in the literature that begs filling, while simultaneously restricting the body of scholarship from which to work. A related limitation stems from insufficient access to data, a complication that slightly impacted analysis of the Nansen era and heavily impacted analysis of the Humanitarian Corridors initiative, particularly given that FBO-state negotiations took place behind closed doors. A third limitation stems from the time at which this thesis was written; given the temporal proximity of the Humanitarian Corridors initiative, there exists a lack of post-project evaluations and historical hindsight through which to assess. The Italian initiative

has not received in-depth scholarly scrutiny, which positions this thesis at the forefront of its field while burdening it with sparse data.

This study has sought to mediate these limitations by employing close and contextual analyses of existing literature, public statements, interviews, and geopolitical trends. Even still, these limitations present important implications for future research: subsequent scholarship would benefit immensely from greater access to data regarding the negotiations behind Italy's Humanitarian Corridors, as well as a comparative analysis of the replicated schemes in other countries. Further research should also consider the functioning of Humanitarian Corridors amidst changing governments, particularly in Italy where 2018 elections ushered in a government far less tolerant of refugees than the one under which the initiative started.[220] Lastly, in October 2018, the European Parliament's Civil Liberties, Justice and Home Affairs Committee called for the establishment of a harmonized humanitarian visa scheme in Europe, and subsequent research should fully analyze this move, assessing its motivation, traction, and impact within European discourse and policy.

The issuance of refugee travel documents is hardly a panacea to the ugly, withering effects of forced migration. Mobility schemes are small in scope, politically tenuous, and historically rare; as such, they must be conceptualized as complementary to, rather than replacing, existing approaches. But more important than the volume of beneficiaries is the amount of potential impact. Nansen Passports and Humanitarian Corridors show that managed migration, secure

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[220] In her interview, Alessia Melillo said of the new Italian government: "We have this agreement for another year so the whole 2019 we have this project running, and then we will try to renegotiate...I have no idea at the moment how it will go. We have permission to work for 2019 but then I really have no idea. I'm sure that it will get more difficult every day. I don't know how it will go in 2020."

borders, and humane policy can all coexist. To scholars and policy makers, as well as politicians struggling to respond, this knowledge brings promise. To refugees seeking protection, it brings salvation. An ocean can once more be just an ocean, a grave just a grave. The two need not mix.

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